

JOURNAL
OF THE
"CAPITOL" SENATE.
SESSION 1872.

JOURNAL.

MONTGOMERY, ALABAMA, }
Monday, Nov. 18, 1872. }

Be it remembered, that this being the third Monday in November, A. D. 1872, the day fixed by law for the meeting of the General Assembly of the State of Alabama, at the hour of 12 o'clock, meridian, Lieutenant Governor and President of the Senate, E. H. Moren, called the Senate to order.

PRAYER.

Prayer by Rev. Mr. Falkner.

DOOR-KEEPER.

On motion of Mr. Coleman—
Mr. Pat. Doran was elected temporary Deer-keeper.

SECRETARY.

On motion of Mr. Terrell—
Mr. Mike L. Woods was elected temporary Secretary.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

From the district composed of the counties of Lime-stone and Lauderdale—Daniel Coleman.

Morgan, Blount, Winston, and Marion—W. H. Edwards.

Jackson, Marshall and DeKalb—A. Snodgrass.

Cherokee and Calhoun—Thomas B. Cooper.

Walker, Jefferson and St. Clair—G. W. Hewitt.

Shelby and Bibb—R. W. Cobb.

Tuskaloosa and Fayette—John M. Martin.

Talladega and Clay—A. Cunningham.

Chambers, Randolph and Cleburne—J. J. Robinson.

Coosa and Tallapoosa—John A. Terrell.

Barbour—James W. Mabry.

Marengo—J. T. Jones.

Choctaw, Clarke and Washington—S. Walton.

Mobile—P. Hamilton.

Wilcox—R. H. Ervin.

Butler and Conecuh—E. W. Martin.

Covington, Crenshaw and Pike—Wm. H. Parks.

Coffee, Dale, Henry and Geneva—J. N. Carmichael.

OATH OF OFFICE.

The oath of office was duly administered to the Senators present by the President of the Senate.

There being a quorum present,

The President declared the Senate ready for business.

ASSISTANT SECRETARY.

On motion of Mr. Martin of Tuskaloosa—

Mr. B. F. Garrett was elected temporary Assistant Secretary.

On motion of Mr. Cooper—

The Senate adjourned until 10 o'clock to-morrow.

TUESDAY, November 19, 1872.

Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskalooza, Parks, Robinson, Snodgrass, Terrell and Walton.

Mr. Driesbach, Senator from the District composed of the counties of Monroe and Baldwin, appeared within the Hall of the Senate and took his seat.

Journal of yesterday was read and approved.

OATH OF OFFICE.

The oath of office was duly administered to the Senators present by Hon. James Q. Smith, circuit judge, and subscribed by them, as follows:

"We and each of us do solemnly swear that we are not disfranchised by the constitution of the State of Alabama, or by the constitution or laws of the United States; that we will honestly and faithfully support and defend the constitution and laws of the United States, the Union of the States, and the constitution and laws of the State of Alabama, so long as we remain citizens thereof; and that we will faithfully discharge the duties of the office upon which we are about to enter to the best of our ability—so help us God. J. J. Robinson, R. H. Ervin, Daniel Coleman, W. H. Edwards, S. Walton, A. Cunningham, R. W. Cobb, G. W. Hewitt, J. D. Driesbach, Wm. H. Parks, A. Snodgrass, James W. Mabry, E. W. Martin, Thomas B. Cooper, J. T. Jones, John A. Terrell, J. M. Martin, J. M. Carmichael, P. Hamilton."

On motion of Mr. Cooper—

The Senate took a recess for one hour and a half.

At the appointed hour the Senate met.

On motion of Mr. Mabry—

The Senate adjourned until 10 o'clock to-morrow.

WEDNESDAY, November 20, 1872.

Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

SECRETARY.

The Senate then proceeded to the election of a Secretary.

Mr. Martin of Tuskaloosa placed in nomination Mike L. Woods of Montgomery.

Those who voted for Mr. Woods are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Canecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—19.

Mr. Woods having received all the votes cast was declared elected Secretary of the Senate, was qualified and entered upon the discharge of the duties of his office.

ASSISTANT SECRETARY.

The Senate then proceeded to the election of an Assistant Secretary.

Mr. Hamilton placed in nomination Benjamin F. Garrett of Coosa.

Those who voted for Mr. Garrett are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—19.

Mr. Garrett having received all the votes cast was declared elected Assistant Secretary of the Senate, was qualified, and entered upon the discharge of the duties of his office.

ENROLLING CLERK.

The Senate then proceeded to the election of an Enrolling Clerk.

Mr. Carmichael placed in nomination James H. Graham of Perry.

Those who voted for Mr. Graham are—

Messrs. Carmichael, Coleman, Cobb, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt,

Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—19.

Mr. Graham having received all the votes cast was declared elected Enrolling Clerk, was qualified, and entered upon the duties of his office.

ENGROSSING CLERK.

The Senate then proceeded to the election of an Engrossing Clerk.

Mr. Coleman placed in nomination W. V. Chardavoyne of Lawrence.

Those who voted for Mr. Chardavoyne are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—19.

Mr. Chardavoyne having received all the votes cast was declared elected Engrossing Clerk of the Senate.

DOORKEEPER.

Mr. Snodgrass placed in nomination Pat. Doran of Montgomery.

Those who voted for Mr. Doran are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—19.

Mr. Doran having received all the votes cast, was declared elected Doorkeeper of the Senate, was qualified, and entered upon the discharge of the duties of his office.

On motion of Mr. Hamilton—

Resolved, That the Secretary of the Senate be requested to inform the House of Representatives that the Senate has organized under the Presidency of Hon. E. H. Moren, Lieutenant-Governor, and has elected M. L. Woods of Montgomery, Principal Secretary; Benjamin F. Garrett of Coosa, Assistant Secretary; James H. Graham of Perry, Enrolling Clerk; W. V. Chardavoyne of Lawrence, Engrossing Clerk, and Pat. Doran of Montgomery, Doorkeeper, and is ready to proceed to business.

On motion of Mr. Hamilton—

Resolved, That a committee of three be appointed to inform His Excellency the Governor of the State of Ala-

bama, that on Monday, the 18th inst., at 12 o'clock M., the Senate of Alabama convened pursuant to law, in the Senate Chamber, at the Capitol, and was called to order by the Lieutenant-Governor of the State of Alabama, Hon. E. H. Moren, the officer constitutionally appointed to be the President of the Senate, that a majority of the members of the Senate appeared in their places in the Senate Chamber, presented the proofs of their election as prescribed by the laws of the State, were duly enrolled and registered, and have been sworn into office by taking the oath prescribed by the constitution, and that the Senate has been organized by the election of a Secretary and other officers, and is ready to proceed with business.

Whereupon the President appointed Messrs. Hamilton, Cobb and Ervin, said committee.

On motion of Mr. Martin of Tuskaloosa the Senate took a recess until 12 o'clock.

At the appointed hour the Senate met.

MESSAGE FROM THE HOUSE.

Message from the House of Representatives by Mr. Clanton.

HOUSE OF REPRESENTATIVES, {
November 20, 1872. }

Mr. President:

I am instructed to inform the Senate that the House of Representatives has been organized by the selection of the following officers:

Lewis M. Stone of Pickens, Speaker; Ellis Phelan of Jefferson, Clerk; Turner Clanton of Montgomery, Assistant Clerk; Tom Taylor of Lee, Engrossing Clerk; Robert C. Clark of Elmore, Doorkeeper, and is ready to proceed to business.

ELLIS PHELAN,
Clerk.

Mr. Hamilton, from the committee appointed to wait upon His Excellency the Governor, made the following report:

The committee have communicated to His Excellency the Governor the fact of the organization of the Senate as directed by the resolution, of which they furnished him a copy ; that he received the communication, and in reply stated that when advised of the organization of both houses he would have a communication to make to the General Assembly.

Mr. Hamilton introduced the following resolution :

Resolved, That a joint committee of three from each house of the General Assembly be appointed to wait upon His Excellency the Governor of Alabama, and to inform him of the organization of the respective houses, and of their readiness to receive any communication he may wish to make.

Mr. Mabry moved to amend by striking out "three from each house" and inserting in lieu thereof, "three from the Senate and five from the House," which amendment was adopted, and the resolution as amended was then adopted.

Whereupon the President appointed Messrs. Hamilton, Terrell and Edwards said committee.

MESSAGE FROM THE HOUSE.

Message from the House of Representatives by Mr. Clanton.

HOUSE OF REPRESENTATIVES, }
November 20, 1872. }

Mr. President :

The House of Representatives has concurred in the resolution of the Senate, to appoint a joint committee to wait upon His Excellency, the Governor, and to inform him of the organization of the two Houses, and has appointed Messrs. White, Anderson, Murphree, Howell and Cowan, the committee on the part of the House.

ELLIS PHELAN,
Clerk.

Mr. Carmichael introduced the following

JOINT RESOLUTION :

Resolved by the Senate of the State of Alabama, the

House of Representatives concurring, That the General Assembly of Alabama assemble in the Hall of the House of Representatives, in joint convention at 12 o'clock M., on Thursday the 21st day of November inst., for the purpose of opening and proclaiming the result strictly, according to the constitution and laws of Alabama, of the election held in the State of Alabama, on the 5th instant, for Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction, and Commissioner of Industrial Resources, for the State of Alabama.

On motion of Mr. Hewitt, the resolution was amended by striking out "Superintendent of Public Instruction," and the resolution as thus amended was then adopted.

Mr. Hamilton from the joint committee of the two Houses, appointed to inform His Excellency, the Governor, of the organization of the two Houses of the General Assembly made the following

REPORT :

The joint committee from the Senate and House of Representatives, appointed to inform His Excellency, the Governor, of the organization of the two Houses of the General Assembly.

Report : That they waited upon His Excellency, and communicated to him a copy of the joint resolution under which they were acting, and in reply he stated, he would communicate to the General Assembly by message, on Thursday November 21st, at 11 o'clock A. M.

On motion of Mr. Cooper—

The Senate adjourned until 10½ o'clock to-morrow.

THURSDAY, Nov. 21, 1872.

Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Mr. Morris of Montgomery.

ROLL CALL.

On the call of the roll the following Senators answered to their names :

Messrs. Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—18.

Journal of yesterday was read and approved.

CALL OF DISTRICTS.

On the call of the Districts, the following bills were introduced :

By Mr. Terrell—

A bill to be entitled an act to repeal an act entitled an act "to exempt from administration property of decedents and vest titles in the widow or child or children," approved February 8th, 1872 ;

Which was read twice under a suspension of the constitutional rule, and referred to the Committee on the Judiciary when raised.

By Mr. Hamilton—

A bill to be entitled an act for the relief of the Mobile and Ohio Railroad Company ;

Which was read twice under a suspension of the constitutional rule, and on motion of Mr. Cobb, referred to a special committee consisting of—

Messrs. Cobb, Hamilton and Cooper.

Mr. Martin of Tuskaloosa, by leave, presented a petition by the Board of Mayor and Aldermen of the city of Tuskaloosa, praying certain amendments to the charter of the city ;

Which was referred to a special committee consisting of—

Messrs. Martin of Tuskaloosa, Ervin and Cobb, with instructions to report by bill or otherwise.

Resolved, That a committee of five shall be appointed by the President, whose duty it shall be to report rules for the government of the Senate during its present session.

The President appointed Messrs. Martin of Tuskaloosa, Carmichael, Terrell, Cooper and Hamilton, as said committee.

On motion of Mr. Terrell, the Senate took a recess until 12 o'clock.

The Senate met at the appointed hour.

MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor by his Secretary.

STATE OF ALABAMA,
EXECUTIVE DEPARTMENT, }
Montgomery, November 21, 1872.

Gentlemen of the Senate and House of Representatives:

On the reception of the joint committee appointed by the two Houses on yesterday, to communicate to this department the organization of the General Assembly, I expressed a hope of being able to transmit on to-day my annual message.

Circumstances beyond my control compel me to delay its transmission until to-morrow at 12 o'clock.

ROBERT B. LINDSAY.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES,
November, 21, 1872.

Mr. President:

The House has amended the Senate joint resolution, in relation to the opening and counting the votes for the different State offices, by striking out "Thursday the 21st instant," and inserting "Friday the 22d instant," and as thus amended has concurred in the same.

ELLIS PHELAN,
Clerk.

On motion of Mr. Coleman,
The Senate concurred in the amendment of the House.
On motion of Mr. Cobb,
The Senate adjourned until 10 o'clock to-morrow.

FRIDAY, NOV. 22, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Dr. I. T. Tichenor.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Terrell and Walton.

On motion of Mr. Hamilton,

The Senate took a recess until 10:50 o'clock.

The Senate met at the appointed hour.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
Montgomery, November 22d, 1872. }

Mr. President:

The hour of 12 o'clock having arrived, when the two houses have agreed to meet in Joint Convention, for the purpose of opening and publishing the votes for Executive and other State offices, cast at the late election, the Senate is respectfully invited into the hall of the House of Representatives for the purpose designated.

ELLIS PHELAN,
Clerk.

JOINT CONVENTION.

The Senate immediately repaired to the hall of the House of Representatives.

The Joint Convention was called to order by Lieutenant Governor E. H. Moren, President of the Senate, who stated the object of the Convention to be, that of wit-

nessing the opening and publishing of votes cast for Executive officers at the general election, held on the 5th day of November, inst.

On the call of the rolls, there were present—

Messrs. Carmichel, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton of the Senate; and

Messrs. Speaker, Anderson, Ash, Barrow, Brown of Tuskaloosa, Boyd, Brewer, Barnett, Cody, Chapman, Corsbie, Crawford, Cowan, Clopton, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Howell, Hamilton, Jones, Kelly, Kimbrough, Lawrence, Lee, Mancill, Musgrove, Manning, McHugh, McCoy, McNeil, Murphree, Morgan, Peddy, Renfro, Slater, Stallworth, Stribling, Smith of Tallapoosa, Smith of Bibb, Taylor, Vaughn, Whatley, Williams, Weatherford, Whitfield, White and Wilkinson, of the House.

The President of the Senate, Lieutenant Governor E. H. Moren, appointed W. R. Noble, Ellis Phelan and Mike L. Woods, tellers, and then proceeded to open and publish by counties, separately, the votes cast for the Executive officers of the State, at the general election held on the 5th of November, inst., namely: Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer and Attorney General, as follows:

VOTE BY COUNTIES.

COUNTIES.	Thos. H. Herndon.	David P. Lewis.	E. H. Moren.	Alex. McKinstry	J. J. Parker.	Pat. Ragland.	Thomas J. Burnett.	Robert T. Smith.	James F. Grant.	Arthur Bingham.	J. W. A. Sanford.	Benj. Gardner.
Autauga.....	674	1,600	675	1,585	675	1,599	676	1,595	677	1,594	674	1,594
Baker.....	472	921	470	926	461	922	461	922	460	922	461	922
Baldwin.....	573	690	569	696	573	691	573	691	573	688	573	691
Barbour.....	2,340	2,762	2,341	2,756	2,341	2,759	2,341	2,757	2,339	2,759	2,339	2,762
Bibb.....	810	418	856	385	810	417	808	414	807	415	808	414
Blount.....	575	271	573	273	573	273	573	273	573	273	573	273
Bullock.....	1,265	3,101	1,265	3,101	1,265	3,101	1,265	3,101	1,264	3,101	1,265	3,101
Butler.....	1,512	1,100	1,510	1,093	1,509	1,100	1,522	1,046	1,505	1,100	1,510	1,100
Calhoun.....	1,819	397	1,818	397	1,818	396	1,819	399	1,828	390	1,813	397
Chambers.....	1,812	1,317	1,812	1,317	1,812	1,317	1,812	1,317	1,812	1,317	1,812	1,317
Cherokee.....	1,290	221	1,251	219	1,258	213	1,258	205	1,258	204	1,258	214
Choctaw.....	1,177	644	1,177	644	1,177	644	1,177	644	1,177	643	1,177	642
Clarke.....	1,403	1,093	1,466	1,094	1,463	1,094	1,461	1,095	1,460	1,094	1,461	1,095
Clay.....	947	398	953	399	952	396	952	399	951	399	953	401
Cleburne.....	544	412	546	411	546	412	544	413	546	412	546	412
Coffee.....	760	103	760	103	760	103	763	103	761	103	762	103
Colbert.....	1,049	814	1,050	804	1,048	793	1,049	792	1,049	792	1,050	792
Conceh.....	928	953	928	950	930	950	929	950	929	949	928	950
Coosa.....	1,034	894	1,047	891	1,046	889	1,045	887	1,050	886	1,043	888
Covington.....	637	70	637	70	637	70	637	70	635	70	627	70
Crenshaw.....	1,066	309	1,066	309	1,067	309	1,068	309	1,066	309	1,068	308
Dale.....	1,012	374	1,011	368	1,010	367	1,005	369	1,002	369	1,009	361
Dallas.....	1,984	7,065	1,983	7,068	1,982	7,065	7,060	1,981	1,983	7,068	1,977	7,070
DeKalb.....	576	586	583	574	588	576	588	575	588	579	585	575
Elmore.....	1,351	1,451	1,351	1,448	1,351	1,448	1,350	1,448	1,350	1,449	1,351	1,448
Escambia.....	602	216	602	216	604	216	602	216	602	216	602	216
Etowah.....	745	295	745	295	743	292	742	291	743	290	743	291
Fayette.....	529	334	532	292	531	319	520	318	532	317	530	319

Franklin.....	488	413	491	405	490	405	488	404	488	405	489	405
Greene.....	1,231	2,508	1,223	2,514	1,224	2,513	1,224	2,512	1,224	2,512	1,223	2,512
Geneva.....	262	49	262	49	261	49	256	49	256	49	200	49
8 Hale.....	8,658	817	8,661	816	8,661	815	8,661	816	8,661	816	8,661	816
8 Henry.....	1,912	896	1,913	896	1,914	896	1,914	896	1,914	896	1,903	896
Jackson.....	1,682	681	1,681	667	1,687	674	1,675	668	1,679	671	1,680	673
Jefferson.....	1,245	1,024	1,223	1,042	1,241	923	1,229	1,027	1,217	928	1,028	928
Lauderdale.....	1,358	921	1,356	916	1,356	916	1,350	900	1,351	915	1,354	916
Limestone.....	849	892	885	886	863	883	855	889	855	884	858	885
Lawrence.....	1,224	1,499	1,237	1,479	1,236	1,480	1,235	1,476	1,235	1,476	1,236	1,476
Lee.....	2,251	2,356	2,252	2,354	2,253	2,353	2,243	2,361	2,252	2,356	2,252	2,354
Lowndes.....	932	3,958	932	3,958	931	3,958	931	3,958	932	3,958	932	3,958
Macon.....	968	2,068	969	2,068	964	2,070	964	2,069	966	2,065	967	2,069
Madison.....	2,471	3,022	2,542	3,929	2,545	3,930	2,545	2,931	2,551	2,932	2,546	2,926
Marango.....	1,707	1,608	1,707	1,609	1,706	1,609	1,706	1,609	1,706	1,609	1,706	1,609
Marion.....	272	271	272	271	271	271	276	271	272	271	272	271
Marshall.....	623	293	626	284	651	259	616	284	651	289	626	280
Mobile.....	6,576	5,938	6,521	5,984	6,574	5,942	6,567	5,944	6,577	5,946	6,572	5,941
Monroe.....	1,448	482	1,450	483	1,451	480	1,438	483	1,440	473	1,438	483
Montgomery.....	3,025	7,096	3,033	7,084	3,030	7,083	3,014	7,090	3,025	7,088	3,046	7,073
Morgan.....	1,013	1,015	1,017	1,008	1,017	1,006	1,013	1,008	1,015	1,006	1,016	1,008
Perry.....	1,400	4,141	1,400	4,141	1,399	4,141	1,397	4,141	1,399	4,141	1,398	4,141
Pickens.....	1,510	441	1,504	441	1,503	441	1,504	441	1,504	441	1,504	441
Pike.....	1,965	553	1,902	553	1,903	553	1,900	553	1,901	553	1,897	555
Randolph.....	915	968	916	967	915	967	914	978	915	965	915	966
Russell.....	1,717	2,513	1,727	2,513	1,727	2,513	1,725	2,513	1,727	2,506	1,725	2,516
Sanford.....	631	261	626	248	625	248	625	244	624	248	625	248
Shelby.....	1,112	893	1,113	893	1,114	893	1,114	893	1,120	885	1,113	888
St. Clair.....	814	489	815	489	815	489	815	489	815	489	815	489
Sumter.....	1,733	2,449	1,732	2,449	1,732	2,448	1,730	2,447	1,731	2,446	1,732	2,446
Talladega.....	1,566	1,935	1,565	1,932	1,565	1,935	1,561	1,935	1,565	1,931	1,565	1,933
Tallapoosa.....	2,142	716	2,142	715	2,143	715	2,139	715	2,137	715	2,140	715
Tuskaloosa.....	1,715	1,350	1,715	1,346	1,712	1,350	1,712	1,350	1,712	1,351	1,710	1,350
Walker.....	441	446	454	443	443	427	444	425	444	425	443	424
Washington.....	495	79	495	79	493	79	493	79	491	79	491	79
Wilcox.....	1,299	3,956	1,298	3,952	1,294	3,952	1,297	3,952	1,297	3,952	1,292	3,952
Winston.....	117	416	114	406	113	404	113	405	113	405	115	403
Total.....	81,371	89,878	81,459	89,569	81,498	89,447	86,433	84,430	81,423	89,613	81,400	89,545

On motion,
The Joint Convention took a recess until 4 o'clock.

At 4 o'clock, the Joint Convention reassembled in the hall of the House.

On motion of Mr. Whitfield,

The Joint Convention adjourned until 12 o'clock to-morrow.

The Senate returned to its chamber.

MESSAGE FROM THE GOVERNOR.

The following message was received from the Governor by his Private Secretary, Mr. Gindrat :

STATE OF ALABAMA,
EXECUTIVE DEPARTMENT, }
Montgomery, November 21, 1872. }

Gentlemen of the Senate and House of Representatives:

I confidently hope that the deliberations on which you have entered, may redound to the general and permanent welfare of the people of the whole State.

Commencing directly as you do, from your respective constituencies, and representing all sections of the State, you are immediately acquainted with their varied but common interests, as well as the views they entertain regarding the more important questions of policy agitating the public mind, and which are likely to invoke your attention during your present session ; and knowing these views, you will recognize the popular will as a presiding and controlling influence at all stages of your legislation.

The recent stern and exciting political contest, out of which the country has just emerged, no doubt roused into activity, passions, prejudices and personal animosities, yet I earnestly trust that these have yielded to better and nobler impulses of broad and comprehensive philanthropy—to a spirit of patriotic benevolence. It will be a matter of joy if the General Assembly of Alabama should exhibit to the world a worthy example of subordinating party antagonisms to the general good, of directing their labors and zeal to a beneficent emulation in promoting prosperity and peace among the million of people

whose civil liberties, whose dearest social and political interest have been confided to their wisdom and fidelity.

Legislation at this crisis in her history may seriously effect the future of Alabama. There are periods in the life of States, as well as of individuals, where one false movement may entail a long succession of evils which regret cannot lighten, nor effort entirely overcome.

Alabama is entering upon a new career of industry needing legislative encouragement, if not protection, to secure its final success. With the emancipation of the colored race there arose at once an inclination and necessity to find new avenues to labor and profit, and the mountain belt of North Alabama, with its inestimable affluence of mineral deposits, water power, and timber, offered a vast inviting field which is already rapidly attracting capital and an intelligent, industrious population. The restoration of the Alabama and Chattanooga Rail Road to active operations, and the recent completion of the South and North Alabama Road, have awakened along their extensive lines a restless spirit of energy which promises grand results of developement and prosperity throughout one-third of the State, which was, but yesterday as it were, inaccessible to traffic or enterprise. Villages, that had for years dragged on a sluggish and profitless existence, began to exhibit cheering signs of a prosperous future. In their centre, where eighteen months ago the smoke of scarcely a single lonely cottage darkened the horizon, may now be seen a flourishing town of nearly four thousand inhabitants, daily extending its limits and multiplying its industries. The infant city of Birmingham is wonderful in its growth, and an impressive monument to the foresight, confidence and energy of its founder.

The natural wealth of Alabama, slumbering still in the unopened recesses of the mountains may be considered geographically within the limits of a particular section, yet when developed, its value will be felt everywhere throughout the State, from the Tennessee to the Gulf; not a city nor a citizen but will experience its vitalizing influence. Whenever therefore, legislation will avail to aid in developing the grand treasures with which nature has enriched our State, the General Assembly will no doubt, wisely and liberally extend its fostering care. Much has already been accomplished in that direction, through the agency of the Railroads which have been constructed

within our borders during the past few years, and I feel at once a pleasure and a pride in pausing here to invite your attention to the signal advancement Alabama has made in the progress of her Railroad system, despite the manifold obstacles, and adverse circumstances it has had to encounter. You will be gratified in being informed that since the close of the late civil conflict, indeed it may be said, within the comparatively brief period of five years, nearly one thousand miles of Railroad have been built—distributed through nearly every portion of the State, placing them in easy and cheap communication with each other, and affording access to the commerce and traffic of the world.— The present administration has, with feelings of high and peculiar satisfaction, witnessed the completion of three roads of vital importance, not only to the regions they penetrate, but of incalculable value to the whole State. The Montgomery and Eufaula Railroad, if I adopt what seems to be the modern mode of measuring space, has brought within a few hours distance from the capitol, the populous and productive country of the Chattahoochee, as well as united in social and business intercourse with the rest of the State, a section which, as one of its noblest citizens once pathetically exclaimed in the Senate Chamber, “only realized its political connection with Alabama through the exactions of the Tax Collector”.

The South and North Alabama Railroad has been slow in its progress, and its completion long deferred, yet when we survey the magnitude of the work, and allow for the many unavoidable interruptions which from time to time have intervened to obstruct it, its final consummation is well calculated to inspire sentiments of wonder and admiration for the spirit and energy which achieved it. An anticipation of the benefits that will surely emanate from this great improvement is beyond present conception, yet its present visible advantages manifest its importance and value. The rugged mountain barrier of the Cumberland range, which so long separated North and South Alabama, has been cleft assunder, and communication established between sections, only heretofore existing by expensive and circuitous routes through the neighboring States of Georgia or Mississippi. This road has also opened a direct highway to the granaries and commercial Marts of the North-West, and created new and numerous outlets for our southern products, above

all, it has rendered available, fields of coal and mountains of iron, surpassed in extent and in quality in no other locality—perhaps in no other country on the Globe. What has been said of the South and North road, may in like manner be said in connection with the Alabama and Chattanooga, running in a different direction, crossing near the centre of each, partially through the same region and diagonally across the State. Apart from the material developments which will enure from it, the Alabama and Chattanooga road is destined to be a great, if not the chief thoroughfare of travel and transportation, from the cities of the Atlantic coast to the lower Mississippi and onward through Texas to the Pacific slope. In addition to these, other similar enterprises are now progressing, which, when finished will contribute their peculiar benefits to the State, and the localities through which they are projected. The Grand Trunk Road, beginning at our Commercial Capital, Mobile, is rapidly moving forward to the coal fields of the Cahaba and other regions of North Alabama; already it has reached its Warrior crossing, fifty-five miles from Mobile, and encouraged by a fair business in agricultural districts through which it passes.

From the thriving town of Opelika, the Savannah and Memphis Road is in operation for a distance of forty miles in a North-Western direction, and progressing earnestly and surely towards its destinations, first, Birmingham, and thence to the navigable waters of the Tennessee. The company constructing it, I learn from what I deem reliable sources of information, are determined, and possessed of the means to continue and complete the undertaking.

The Selma, Marion and Memphis Railroad is of great importance to the State; especially to the rich agricultural counties of middle and western Alabama, is also going forward, and when it forms its connection with the Mobile and Ohio Railroad will constitute a valuable member of our Railroad System.

The Selma and Gulf Railroad overtaken by adversity seems to have halted for the present at its fortieth mile. I am, however, unofficially informed that a recent sale of the road to an English company will insure its speedy completion to the Gulf. The East Alabama and Cincinnati Road has not proceeded beyond its twentieth mile from Opelika, a point reached prior to the commencement

of the last session of the Legislature. The railroads referred to form what may be denominated the railroad system of the State and heretofore the recipients of the State's endorsement.

The necessity for railroads, and the multiplied benefits they confer upon all the pursuits and interests of mankind ignorance can scarcely summon hardihood to question in this century of human life, yet a great difference of opinion does prevail regarding the true policy of Government towards them. In this State this question has been agitated under the form of endorsement of railroad bonds. Ignoring, however, the conflicting views of individuals, or of parties, I have since my accession to the Executive Office simply endeavored to execute the endorsement laws in letter and spirit as I found them on the statute book. I recognized in them a solemn contract between the State and the railroad companies in the first place, and in the second a pledge of the most scrupulous good faith on the part of the State to all persons who honestly and innocently loaned their money on the State's endorsement, and I diligently and earnestly sought to measure my acts by this interpretation of the law. The wisdom of the legislation it was not my province to determine; and to have decided upon its constitutionality, would have been an usurpation of power in the highest degree culpable. The policy of endorsement had been sanctioned by two successive Legislatures—first by the Legislature of 1867, sitting before the General Assembly received a new form from the reconstruction acts of Congress by a Legislature composed of many of the veteran lawgivers, and patriots of the State—and repeatedly confirmed, though modified by succeeding Legislatures, while its constitutionality had never been assailed in the judicial tribunals, where alone the acts of the Legislature may be declared unconstitutional. Under these impressive circumstances I have pursued the course I conceived to be in strict conformity with the statutory provisions. I may, however, be permitted here to say that I have not yet met with any argument or discovered any fact sufficient in my judgment to establish the unconstitutionality of any of the endorsement laws, and thereby to invalidate the obligation assumed by the State in pursuance thereof. It has been alleged and warmly urged in the Legislature, as well as in portions of the public press that the State is not liable whenever it is shown

that the railroad company had failed to comply strictly with law, either before or after the endorsement. I suggest that a closer scrutiny of the laws will reveal the fact that the wrongful act of the company works a forfeiture of its rights to endorsement releases the State from its obligation to endorse, but not from liability to an innocent and "*bona fide*" purchaser of the bonds. This position will certainly be universally admitted to be true as to such violative acts committed ante-cedently to endorsement. An endorser surely cannot successfully plead the failure of the maker to perform a contract between themselves against an innocent endorser, a stranger to the contract, and who was neither the cause, nor cognizant of the failure.

If for example a railroad company obtained endorsement, and made the first sale of endorsed bonds for less than ninety per cent. of nominal value, this would not render the endorsement illegal or avoid it on bonds in the hands of and owned by a subsequent innocent purchaser at ninety-five per cent. I cannot think that such a judgment would be pronounced, either in a court of law or equity—it would certainly not be consonant with high morality. This reasoning is not intended to apply to the endorsement of bonds *which under no circumstances ever had been entitled* or ever could be entitled to endorsement. One illustration will manifest the distinction. The law authorizes endorsement at the rate of sixteen thousand dollars per mile throughout its entire length, and no more. If the Governor should, however, endorse bonds for a greater number of miles than the road contains. I do not think the State would be liable on such endorsement. The purchaser is bound to use all possible diligence and vigilance for his own protection, and whenever he can use them, and neglects to do so he must suffer. The length of a road is ascertainable, and the number of the bond serves to admonish caution. There must be some limit to liability imposed on the State by the endorsement of the Executive, and that which I have stated appears to be a right one. The State never authorized such endorsement on the fulfilment of any conditions—the bonds represent a fiction not a road, and the holder could by investigation have ascertained that fact. At the last session of the Legislature the constitutionality of the two million bonds issued for the benefit of the Alabama and Chattanooga Railroad Com-

pany, and the liability of the State thereon also, became subjects of long and earnest discussion. The denial of their constitutionality was maintained chiefly on the ground that the statute authorizing their issue failed to receive on its passage the required constitutional number of votes. This argument originated in the supposition that the bonds being the direct bonds of the States their issuance was restrained by section 32 article iv of the constitution which reads: "The General Assembly shall not borrow or raise money on the credit of this State, except for purposes of military defence against actual or threatened invasion, rebellion or insurrection, without the concurrence of two-thirds of the members of each house, nor shall the debts or liabilities of any corporation, person or persons, or other States be guaranteed, nor any money, credit or other thing be loaned, or given away, except by a like concurrence of each house, and the votes shall in each case be taken by the yeas and nays and be entered on the journals."

The face of the bonds, however, on examination will be found not to be in the usual words of State bonds, but purport thereon to have been issued for the express purpose of aiding the construction of the Alabama and Chattanooga Railroad, a fact which clearly transfers the authority for their issuance to section 33 of article iv of the constitution which provides that "the State shall not engage in works of internal improvement; but its credit in aid of any such may be pledged by the General Assembly on undoubted security, by a vote of two-thirds of each house of the General Assembly." The language of the two sections cited widely differ in letter and intention. The former section prescribes a majority of two-thirds of the *members* of each house, the latter a majority of two-thirds of each *house*. A majority of the members of each house mentioned in section 32 alluded to contemplates a majority of all members entitled to seats in the body; a majority of the house mentioned in section 33 means a majority of two-thirds of a quorum, which is any number over 50. Section 7, article iv declares a majority of each house shall constitute a quorum.

It may be asked why different majorities should be thus prescribed. The answer is found in the sections themselves. In section 32 the State is solely and exclusively liable for the payment of the bonds; in section 33 the beneficiary railroad company is required to give good

and sufficient security that the company would pay both principal and interest of the bonds as either became due. I have deemed it to be my duty thus briefly to dwell on a subject of such general public interest, rather as suggestive of facts than by way of argument.

The aggregate endorsements of railroad bonds amount to at the present date (\$15,110,000.) fifteen million one hundred and ten thousand dollars, a sum apparently well calculated to excite grave apprehensions in the popular mind as to their financial capacity to meet it without an onerous and impoverishing increase of taxation as well as to impair the credit of the State abroad. I do not think there is the least real foundation for such fears. The State is well secured against ultimate loss. Were the roads sold to-day under the mortgages, and the liens of the State three-fourths of them would realize the amount of the endorsements, while the remaining fourth, embracing about seventy-five miles, would realize little less than the endorsement. This is the opinion too of persons of experience and matured judgment in railroad matters. The security being equal to her liability it is false and injurious to include in the estimate of the State indebtedness the amount of railroad endorsement which the enemies of our credit and interested malice have studiously done. I may add that the iron and other movable property of the roads would alone realize three-fourths of the amount of the endorsement. Thus it will be seen that the enormity of the State's indebtedness so often proclaimed to the detriment of her credit and solvency dwindles into insignificance.

Excluding from the calculation the contingent liability incurred by endorsement of railroad bonds, the public debt of the State may be stated as follows:

Eight per cent bonds.....	\$ 2,376,000 00
Six per cent bonds.....	770,500 00
Five per cent bonds.....	3,296,800 00

\$ 6,443,300 00

Add to this eight per cent bonds loaned to

A. & C. R. R.....\$ 2,000,000 00

And the bonds loaned to the Montgomery

& Eufaula Road..... 300,000 00

And we have, total.....\$ 8,743,300 00

This is the bonded indebtedness of the State, embracing \$3,445,000, contracted at periods previous to the civil war; \$1,500,000 authorized by the act approved December 15, 1865; \$500,000 by act approved August 12, 1868, and \$1,000,000 by act of December 15, 1871, for the purpose of paying the interest on endorsed bonds, &c., and the \$2,000,000 loaned to the Alabama and Chattanooga Railroad Company. To which may be added \$396,600, the sum of what is known as the Patton tax certificates—non-interest bearing—and we have a total public debt of \$8,743,300, with semi-annual interest thereon of \$699,464.

I must not be understood by this computation as repudiating the State's obligation to her domestic funds, such as the University and School funds.

Again ignoring the policy of the endorsement system, I recommend earnestly an exact and faithful observance of all the State's obligation authorized by constitution and law. The public credit of Alabama has always occupied a proud and elevated place in the financial registers of the world, and it should be scrupulously preserved. No unworthy pretext should be permitted to seduce us into a violation of our pledged faith. Misfortunes may interfere with, and excuse punctuality, but can never justify an abandonment of our obligations. Adversity has visited her, but has not deprived the State of her native wealth, and fidelity to her promises in a season of poverty will only shine the brighter in the days of her prosperity. I urge immediate provision to meet all her unpaid liabilities at the earliest possible day. Procrastination will only tend to increase the burden. Indeed, our whole financial condition urgently demands your calm and prudent action, for it cannot be disguised that the State is threatened with the gravest fiscal embarrassments, unless adequate remedies are promptly adopted. The present administration has had to contend with a ceaseless succession of demands without means sufficient to satisfy them. On my accession to office, I found the treasury containing the trifling pittance of sixteen hundred and forty dollars and twenty cents (\$1,640 20), with a very large amount of demands upon it unprovided for. These, added to the current appropriations and necessary expenditures, have greatly transcended the income of the government. It is due to you, to the people, and to the administration to assign the

causes of the deficiency. By reference to the Auditor's Report for the year 1871, it appears that the expenditures of that year exceeded the receipts by the sum of \$217,622 32, while the same officer's report for the present year shows an excess of \$197,507 81, together with the sum of \$346,475 35, leaving the enormous sum of \$543,983 16 to be paid out of the receipts of the present year. This financial condition arises from no new or extraordinary application of the funds, but simply from the inequality of the receipts with the ordinary disbursements, and it occurred under a taxation fifty per cent. higher than that of the fiscal year just closed, and when the income amounted to \$1,378,168 00. The aggregate receipts for the year 1871 and 1872 amounted to \$2,260,064 68, while the amount paid on account of public schools was \$1,094,390 56, and \$700,000 in payment of the interest on the bonded debt. Thus it will be observed that the public schools and interest on the bonded indebtedness absorbed the greater portion of the entire income of the State, with \$317,573 35 alleged to be still due on school account.

It may be asked why this deficit should have occurred during the present administration, while the preceding administration escaped it. This is easily explained. In 1868 the treasury received from the sale of 8 per cent. bonds \$556,468 46, and in 1869 \$498,648 04, and transmitted a very large amount of claims to be paid by this administration without auxiliary sources from bonds or loans to discharge them. It may not be improper at this point to call your attention to the fact that no money has been drawn from the treasury to pay interest on railroad bonds, or for any purpose connected with railroads.

At the last session of the Legislature, and by act approved December 15, 1871, one million dollars of bonds were authorized to be issued. These bonds were executed in accordance with law, payable in the currency of the United States, bearing 8 per cent. interest, and placed in the hands of Lehman, Durr & Co., the Fiscal Agents of the State, for sale. It was soon discovered that on account of the depressed condition of the money market, as well as the cloud resting on Southern securities generally, they would not command a fair price, at least such a price as I considered equivalent to their value. From accounts rendered by Lehman, Durr & Co., and Duncan, Sherman & Co., herewith transmitted, you will ascertain

the disposition of said bonds, as well as all moneys arising therefrom. In all my monetary necessities and transactions Duncan, Sherman & Co., the Financial Agents of the State in the city of New York, have exhibited a solicitude and willingness to aid me and maintain the credit of the State, meriting the highest praise and lasting gratitude of the people of Alabama. To maintain the State's credit they have at all times exhibited a solicitude of a higher and more disinterested character than that which ordinarily actuates a mere agent.

To Lehman, Durr & Co., the home Fiscal Agents of the State, a grateful recognition of their services and earnest efforts in our behalf is justly due. Whenever it has been necessary and possible their assistance has been promptly and adequately rendered, while their official duties as Fiscal Agents have been efficiently and faithfully discharged.

The reports of the Auditor and Treasurer will exhibit in detail the transactions of their respective offices during the past fiscal year. These offices have been examined by commissioners appointed under section 70 of the Revised Code, whose reports submitted to this Department establish the efficiency with which their administration has been conducted. The Auditor has elaborated many questions of policy which will engage your deliberations. His views may not in all cases command your approval, yet many of his suggestions are worthy your consideration.

The treasury office has throughout the two years of this administration given many gratifying proofs of the solicitude, both of the excellent chief officer and his worthy assistant, to guard the fiscal interest of the State, and to uphold the effort of the Executive to maintain our public credit.

The Report of the Superintendent of Public Instruction is herewith transmitted for your inspection. That officer has been burdened with duties, the onerous character of which he alone can justly and adequately estimate. There is no department of the government whose workings and administration address themselves so directly to the feelings, I may add, the prejudices, of the popular heart. To manage an enlarged school system successfully, and satisfactorily to all classes, communities and sections of the State, is an achievement within the power of few officers, if at all possible. The present

Superintendent has labored diligently and zealously to render the common schools efficient, and fruitful of good to the people; and wherever he has failed the failure may be safely ascribed to the faults of the system.

No educational system can succeed unless it is firmly established in the popular heart, and sustained by popular approbation—unless supported and cherished, instead of being neglected and the constant subject of complaint. it becomes an incubus upon the mental development of the masses. There is much reason to fear that the Common School System of this State has failed to accomplish its grand mission, and if not modified at an early day, will prove an entire failure. Its framework is the creature of the constitution, and, therefore, cannot be reached by legislation. Amendments of the constitution, whenever practicable, should be submitted to the people, not to destroy, but to make a better and more effective system, and within the financial capacity of the State to maintain.

In accordance with the provisions of a statute enacted at the last session of the General Assembly, an Agricultural and Mechanical College has been established and organized at the town of Auburn, in the county of Lee. A Board of Directors, composed of some of the most experienced citizens of the State, overlook its interests and management. A competent corps of professors have been chosen, under whom the institution promises prosperity and usefulness.

The funds for the maintenance of the college are derived from the sale of land scrip donated for that purpose by the Government of the United States. The Scrip, as the General Assembly at its last session was informed, was disposed of at the price of two hundred and sixteen thousand dollars which amount has been paid. By act approved, the money so derived was required to be invested in the eight per cent. bonds issued under the act approved.

Prior to the passage of the last named act, the Auditor as shown by his report had invested a part of the fund in bonds to the value of \$59,500 00, and of the remainder of the fund the financial agents, Duncan, Sherman & Co., hold \$159,000 00, of said bonds making an aggregate of \$218,500 00. Eight per cent. interest bearing bonds, with coupons due July 1872. I considered the law of — 1872, — as contemplating an investment at

par, and as the bonds were in New York, I considered this special deposit with the financial agents, as the safe and proper course. The money arising therefrom has been properly credited in the financial account of the State by this Department.

The report of the Warden and Inspectors will exhibit the condition of the penitentiary. Pursuant to law the convicts have been hired out. The policy of the system should be enquired into at the present session. It invokes grave questions which investigation alone can determine, and I urge it upon your immediate consideration. I refrain from enlarging this communication with details already embodied in said report.

Reports from the various public institutions of the State will be transmitted as soon as received at this Department.

I also transmit papers connected with the swamp lands, showing the acts of the commissioners and agents which will guide you in any inquiry or legislation you may institute with regard to them. An amount of money has been realized from a sale of a portion of said lands which has been certified into the treasury, as will more fully appear from the reports of the Auditor and Treasurer.

In my last annual message I communicated to the General Assembly a detailed narrative of the complication, and embarrassments, in which the State had been involved by the failure of the Alabama and Chattanooga Railroad Company to pay the interest due on bonds for the payment of which the credit of the State had been pledged by endorsement. To extricate the State from these embarrassments I have worked constantly and earnestly and have been animated with the hope that I had succeeded and would have the pleasing satisfaction of announcing to the present Legislature a complete settlement of the vexing question. In this I have been somewhat disappointed, yet I trust that what has been accomplished will enable my successor to bring it speedily to a successful and satisfactory conclusion. I will here endeavor to present clearly but concisely the history of my most important acts in this connection since my last message on the subject.

The interest on the endorsed bonds of this company falling due on the 1st of January and July 1871, I had caused to be paid in pursuance of an act providing for

such payment. Under the provisions of the same act I paid the interest which became due on the 1st day of January, 1872. This I believed it to be my duty to do; my intention to pay this interest was explicitly declared in a special message transmitted to the General Assembly at its last session and previous to the payment. The money used to pay it was furnished by Lehman, Durr & Co., fiscal agents on my order, to Duncan, Sherman & Co., all of which will appear from their accounts.

Under a decree of the bankrupt court, the Alabama & Chattanooga Railroad was sold at public auction and for and on behalf the State I bought it at the price of \$312,000 00.

To vest the legal title in the State was in my opinion indispensable to secure the State against the loss of her rights and liens.

Of the three hundred and twelve thousand I paid the assignees in bankruptcy one hundred thousand dollars which I raised by temporary loan. The balance yet remains unpaid. The Honorable Richard Busteed, Judge of the District Court of the United States sitting in cases of bankruptcy, on application and proper representations extended the time of payment of the balance of said purchase money. Authorized by the same legislative act, I offered the road for sale on such terms as the value of the property dictated and I believed would meet the approval of the people. I encountered great difficulties at every step of my negotiations, especially because of the complication in which it was involved. Two suits were pending in the circuit court of the United States which deterred capitalists from risking liabilities so large in their amount, without security from the peril which the lawsuits threatened to the title I might be able to convey. One of the suits alluded to aimed at the overthrow of the bankrupt proceedings and the consequent destruction of the legal title which the State acquired by the purchase at said sale. The other suit had for its object the withdrawal of the road from the control of the bankrupt court and to transfer it to receivers. The actors in these suits were in fact the bankrupts themselves who sought to defeat the rights, liens and possession of the State.

In addition to these, other obstacles of a grave character opposed my efforts to effect a sale. The State of Georgia asserted a lien over that portion of the road

recognized by the bankrupt court within her limits and had seized it. I had neither the right nor power to forcibly take possession of that portion; satisfaction of the claim of Georgia was therefore necessary to enable me to put a purchaser in possession of the entire road. To overcome so many serious difficulties seemed impossible, yet the deterioration of the property, the constantly accumulating interest on the bonds and the vast injury which the country through which the road run was suffering from its irregular operations, all these urged,—demanded a disposition of it, even if that disposition incurred some sacrifice on the part of the State. Parties were at length found who agreed to form a company to purchase it on the following terms:

1. To assume the payment of the endorsed bonds \$4,720,000.

2. To pay all future accruing interest.

3. To secure by first mortgage bonds running twenty years all past due interest on said endorsed bonds.

4. To pay \$212,000 due to the assignees in bankruptcy.

5. To refund the hundred thousand dollars paid the said assignees by the State.

6. To pay the further sum of \$58,000 to aid in defraying the expenses incurred by the State in and about the road.

These terms were offered and I agreed to accept them, but before the consummation of the agreement a decree was rendered by Judge Bradley, one of the justices of the Supreme Court of the United States sitting as Circuit Judge confirming in substance the bankrupt court proceedings in the matter of the Alabama and Chattanooga Railroad Company, the validity of the sale and therein the legal title of the State and in express language the liens of the State, and the right to assert them as well as to use all the summary remedies provided by the endorsement laws. Thus far the decree was most excellent in its effect upon the interests of the State. The establishment of her liens was result paramount to all other considerations in value, and greatly to be desired. The validity of the State's lien had been strenuously assailed by both the bankrupt company and second mortgage bond holders. If their struggle to destroy it had succeeded the State would have been compelled to bear the burden of endorsement—the liability to pay the principal and interest of the money that built the road while

the bankrupt enjoyed the property. The State was not directly or indirectly a party to the proceedings on which led to Judge Bradley's decree, was not present at its rendition, nor in any manner participated therein, yet I cannot but think that it will prove of the greatest advantage in settling forever the validity of the liens secured by the endorsement laws. The said judge appointed two Receivers to take possession of the road, and gave them power to take possession of it from Chattanooga to Meridian, but provided in the decree that said Receivers should surrender it to any parties to whom the State of Alabama should sell. The appointment of Receivers was designed to effect a delivery of the entire road and movable property belonging to it to the purchaser without molestation or hindrance, which experience has proven to have been judicious and necessary. The decree invested the Receivers with power to raise \$1,200,000 by mortgage on the road to complete its construction and amply equip it. The accompanying copy of the said decree is herewith transmitted.

The receivers have taken possession of the road, repaired and put it in operation throughout its entire length. The purchasers, in accordance with agreement, paid to my agent, Col. Gindrat, seventy-five thousand dollars, part of the \$158,000 to be paid in cash to the State, promising to pay the balance in a short time. This they have failed to do. Neither have they complied with the other stipulations of the contract. No conveyance has been made to them.

This is briefly a statement of the main transactions of this department connected with the Alabama and Chattanooga Railroad. To have given a minute history of this matter would have extended this communication far beyond justifiable limits.

In my labors and efforts to protect the State and her interests in this railroad, the assistance of the most eminent counsel was needed and employed, to whose ability and devotion I am eminently indebted for my triumph over my multiplied and in many instances most unscrupulous adversaries. I had to contend against litigation in the courts of Tennessee, Georgia and Mississippi, as well as Alabama, in any one of which defeat would have been disastrous to the State. In Tennessee, Col. John Baxter; in Georgia, Nesbet and Jackson, and the

late Hon. Wm. Dougherty; and in Alabama, Pettus & Dawson, Stone & Clopton, and Watts & Troy, were the attorneys employed and their compensation will be presented for your action and allowance. I recommend a special committee for the ascertainment of their fees as well as to inquire into indebtedness due to certain employees which the income of the road was insufficient to meet during the time it was operated under the authority of the State. The reports of Col. Gindrat and Col. Harding who superintended its management at the time will guide the action of the committee.

Whatever has been done in connection with this Alabama and Chattanooga Railroad by the present Executive, it has always been prompted by a deep, earnest desire to vindicate and protect the rights and interests of the State, and I leave it with the reflection that at all times and under all opposing circumstances I have inflexibly, anxiously and vigilantly pursued that object alone—the protection of the interests of Alabama.

Gentlemen, in conclusion, permit me to express the hope that your legislative labors will be prosecuted with harmony, wisdom and patriotism, under the beneficent guidance and influence of Divine Providence.

ROBT. B. LINDSAY.

On motion of Mr. Edwards,
The Senate adjourned until 10 o'clock to-morrow.

SATURDAY, November 25, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Dr. I. T. Tichenor.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt,

Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

The Journal of yesterday was read and approved.

ANNUAL MESSAGE.

The consideration of the Governor's annual message was resumed.

On motion of Mr. Ervin—

The message, after having been read, was laid on the table, and fifteen hundred copies ordered to be printed, with the accompanying documents.

On motion of Mr. Mabry—

The Senate took a recess until five minutes before 12 o'clock.

The Senate met at the appointed hour.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, {
November 23, 1872. }

Mr. President:

The House has originated and passed a bill—

In relation to the board of commissioners to improve the river, harbor and bay of Mobile.

And ordered the same to the Senate without engrossment.

ELLIS PHELAN,
Clerk.

CONSIDERATION OF HOUSE MESSAGES.

The House bill—

In relation to the board of commissioners to improve the river, harbor and bay of Mobile.

Was read the first, second and third times, under a suspension of the constitutional rule, and passed.

And ordered to be sent forthwith to the Governor.

JOINT CONVENTION.

The hour of 12 having arrived,

The Senate repaired to the hall of the House of Representatives, and the two houses met in joint convention, pursuant to adjournment, for the purpose of witnessing the publishing of the result of the recent election.

The President of the Senate, Lieutenant Governor E. H. Moren, not being ready to publish said result, on account of the error in the returns of the board of supervisors of Dallas county,

On motion—

The Convention adjourned until 4 o'clock P. M.

The Senate returned to its chamber.

MESSAGE FROM THE GOVERNOR.

EXECUTIVE DEPARTMENT, }
STATE OF ALABAMA, }
Montgomery, November 23, 1872. }

Gentlemen of the Senate:

Under authority in me vested by the constitution, I have appointed, and ask you to confirm the appointments, of Gen. Wm. W. Allen, of Montgomery; Col. Wm. A. Johnston, of Colbert county, and Col. Richard H. Powell, of Bullock county, to the office of Brigadier General of the State Militia.

Respectfully,

ROBERT B. LINDSAY.

The Senate then went into Executive session to consider the Governor's message.

On motion of Mr. Martin of Tuskaloosa, it was unanimously

Resolved, 1st. That the Senate do advise and consent to the appointment of Gen. Wm. W. Allen, of Montgomery county, to the office of Brigadier General of the State Militia.

Resolved, 2d. That the Senate do advise and consent to the appointment of Col. Wm. A. Johnston, of Colbert county, to the office of Brigadier General of the State Militia.

Resolved, 3d. That the Senate do advise and consent to the appointment of Col. Richard H. Powell, of Bul-

lock county, to the office of Brigadier General of the State Militia.

On motion of Mr. Martin of Conecuh—

The Senate adjourned until 3½ o'clock P. M.

AFTERNOON SESSION.

The Senate met at the appointed hour.

JOINT CONVENTION.

The hour of 4 o'clock having arrived,

The Senate repaired to the hall of the House, and the two houses met in joint convention, pursuant to adjournment.

Lieutenant Governor E. H. Moren, President of the Senate, then published the result of the general election, held on the 5th of November, inst., as follows:

For Governor.

Votes.

Thomas H. Herndon.....	81,371
David P. Lewis.....	89,878

For Lieutenant Governor.

Edward H. Moren.....	81,459
Alexander McKinstry.....	89,569

For Secretary of State.

Jabez J. Parker.. ..	81,498
Pat. Ragland.....	89,447

For Auditor.

Thomas J. Burnett.....	81,354
Robert T. Smith.....	89,509

For Treasurer.

James F. Grant.....	81,423
Arthur Bingham.....	89,613

For Attorney General.

John W. A. Sanford.....	81,400
Benjamin Gardner.....	89,545

The following persons having received a majority of all the votes cast for the respective offices, namely :

David P. Lewis, for the office of Governor ;

Alexander McKinstry, for the office of Lieutenant Governor ;

Pat. Ragland, for the office of Secretary of State ;

Robert T. Smith, for the office of Auditor ;

Arthur Bingham, for the office of Treasurer ; and

Benjamin Gardner, for the office of Attorney General of the State of Alabama—

Were duly declared elected to the same for the terms prescribed by the constitution and laws.

On motion of Mr. Manning, of the House—

Resolved, By the Senate and House of Representatives of the State of Alabama in Convention assembled. That a joint committee of three members of the Senate and three members of the House be appointed by the Chair to wait upon the Hon. David P. Lewis, of Madison county, and inform him that the Hon. Edward H. Moren, Lieutenant Governor of the State, and presiding officer of the Senate, proceeded on Friday, the 22d day of November inst., at 12 o'clock Meridian in presence of a majority of the members of the General Assembly of Alabama convened in the Hall of the House of Representatives at the Capitol, and continued to this day to open and publish the returns of the recent election for Governor and other officers of the State, and that thereupon it has been ascertained that the said David P. Lewis, received the highest number of votes for the office of Governor, and has been declared duly elected Governor of the State of Alabama for the term prescribed by the constitution.

Resolved further, That said Joint Committee be instructed to enquire when it will be the pleasure of the Governor elect, to take the oath of office, and enter upon the discharge of his duties.

Resolved further, That said committee be instructed to wait upon the Hon. Alexander McKinstry of the county of Mobile, and inform him in like terms, of his

election to the office of Lieutenant Governor, and to enquire when it will be his pleasure to take the oath of office, and enter upon the discharge of his duties.

Resolved further, That the Senators on said committee be instructed to report to the members of the Senate and the members of the House of Representatives on said committee be instructed to report to the House of Representatives.

On motion the joint convention adjourned.

The Senate repaired to its Chamber.

The President appointed Messrs. Martin of Tuskalooza, Ervin and Cobb the committee, on the part of the Senate to wait upon the Governor and Lieutenant Governor elect, and inform them of their election.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
November, 23, 1872. }

Mr. President :

The House has originated and passed the following bill :

To repeal an act to provide for the election of Marshal of the city of Tuskaloosa, approved February 21st, 1872, and amendatory thereof ;

And ordered the same to the Senate without engrossment.

The House has appointed the following committee to act with Senate committee, under joint resolution to wait on the Governor elect ;

Messrs. Manning, Whitfield and Boyd.

ELLIS PHELAN,
Clerk.

House bill—

To repeal an act to provide for the election of the City Marshal, of the City of Tuskaloosa, approved February 21st, 1872, and amendatory thereof was, on motion of Mr. Martin of Tuskaloosa, taken up and read three times forthwith, under a suspension of the constitutional rule and passed.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES,
November 23, 1872.

Mr. President:

The House has originated and passed the following joint resolution, to-wit:

Resolved by the General Assembly of Alabama, That a joint committee of three on the part of the Senate, and five on the part of the House, be appointed to prepare an address to the people of the State setting forth the facts and circumstances attending the organization of this General Assembly by which its action has been retarded and embarrassed, and ask the concurrence of the Senate in the same.

Committee on the part of the House—Messrs. Anderson, Whitfield, Cowan, Gresham, and Manning.

ELLIS PHELAN,
Clerk.

On motion of Mr. Hamilton—
The Senate concurred in the House

JOINT RESOLUTION.

Thereupon, the Senate appointed Messrs. Hamilton, Parks and Carmichael, the committee on the part of the Senate.

Mr. Martin of Tuskaloosa, from the committee appointed to wait on the Governor and Lieutenant Governor, reported that the committee had discharged that duty and that the Governor had for the present, declined to make known his intentions, but would communicate the same.

MONDAY, November 25, 1872.

Senate met pursuant to adjournment.
Journal of yesterday read and approved.
Mr. Cobb offered the following

PREAMBLE AND RESOLUTION :

WHEREAS, It has been the policy of this Senate to proceed in order, and according to law in all its actions, and it has desired to do right to all persons that might claim to be Senators thereof;

And whereas, it has been represented that the gentlemen holding seats as Senators from Barbour county, and Marengo county, are not entitled to the same, but no other persons claiming to be entitled thereto have appeared to contest the right of the persons now seated;

And whereas, In the first instance, the right to seats in this Senate, depends upon the person applying thereto, having a certificate of the Secretary of State, founded on the returns of the election made to that officer by the Board of Supervisors of the respective counties composing their districts, which evidence the Senators now occupying such seats did produce; therefore,

Be it resolved, That a committee of three members of this Senate be appointed by the President, who without going into an investigation of the facts and circumstances of the election in such districts, which cannot be properly done without giving contestants notice, and an opportunity to prove their allegation, shall examine the returns and the papers relating thereto, in the office of the Secretary of State, in respect to the Senators of said districts, and report the facts thereof to this Senate, together with their opinions upon the validity of the certificates to the gentlemen sitting as Senators from said districts as founded upon said returns: *Provided*, that the ultimate rights of any persons claiming either of said seats, shall not be determined by the action of this resolution.

Pending the consideration of the preamble and resolution at the suggestion of the President of the Senate, Lieutenant Governor E. H. Moren, on motion of Mr. Cobb, the same were laid on the table.

Lieutenant Governor Moren, then announced to the Senate, that having served the full term of two years, and his successor, Hon. Alexander McKinstry, having qualified by taking the oath of office, he was no longer President of the Senate. But Lieutenant Governor McKinstry, not being present to enter upon the duties of

his office, it became necessary for the Senate to elect a President, *pro tem.*

The Senate then proceeded to the election of a President, *pro tem.* of the Senate.

Mr. Cobb placed in nomination Mr. Ervin.

Those who voted for Mr. Ervin are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—18.

Mr. Ervin voted for Mr. Cooper—

Mr. Ervin having received a majority of all the votes cast, he was declared duly elected President, *pro tem.* of the Senate, and entered upon the discharge of the duties of his office.

On motion of Mr. Hamilton it was unanimously

Resolved, That the thanks of this body are hereby returned to the Hon. E. H. Moren, late President of this Senate, for the prompt, upright, fair, and courteous manner in which he has discharged the duties of his Presidency over this Senate.

Lieutenant Governor Moren returned his thanks in appropriate remarks, and thereupon retired from the Presidency of the Senate.

On motion of Mr. Martin of Tuskaloosa—

Resolved, That the Secretary of the Senate be instructed to furnish Hon. E. H. Moren, late Lieutenant Governor, with a copy of the foregoing resolutions.

On motion of Mr. Hewitt—

The preamble and resolution offered by Mr. Cobb, were taken from the table.

On motion of Mr. Cobb—

The further consideration of the same was postponed until half past ten o'clock to-morrow, and they were made the special order for that hour.

On motion of Mr. Martin of Tuskaloosa—

The Senate adjourned until 10 o'clock to-morrow.

TUESDAY, November 26, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton.

SPECIAL ORDER.

The hour of ten and a half o'clock having arrived, the Senate proceeded to the consideration of the special order, it being—

Mr. Cobb's preamble and resolution in relation to the gentlemen holding seats as Senators from Barbour county and Marengo county.

Mr. Hewitt moved to amend by inserting after the word "district," "and such other evidence as may be submitted by the Senators now occupying said seats," and striking out the words "together with their opinions upon the validity of the certificates to the gentlemen sitting as Senators from said districts, as founded upon said returns."

Mr. Hewitt's amendment was adopted.

Mr. Parks offered the following resolutions as a substitute:

Resolved, 1st, That a committee of five be appointed by the President, whose duty it shall be to inquire into the credentials of the members of this body, examine the validity of each one's claims, and report at the earliest practicable time.

Resolved, 2d, That if, upon a full, fair, and impartial investigation, which shall be of a general character, and not confined to the case of one or two members, said committee should be of opinion that the right of any one or more Senators occupying seats is not clear and satisfactory, but of a doubtful character, they shall so report, and include in their report the facts and circumstances upon which their opinion is founded.

Resolved, 3d, That said committee shall have power to send for persons and papers, examine witnesses, or cause

the same to be done by commissioners to be appointed for the purpose, and do whatever else may be necessary for carrying out the objects and purposes of the foregoing resolutions.

On motion of Mr. Cobb—

The substitute was amended by striking out the words “examine the validity of each one’s claims.”

Mr. Robinson moved to indefinitely postpone the consideration of the original resolution and the substitute ;

Which motion was lost.

The substitute was adopted—yeas 14, nays 4.

Those who voted in the affirmative are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Parks, Snodgrass, and Walton—14.

Those who voted in the negative are—

Messrs. Martin of Conecuh, Martin of Tuskaloosa, Robinson, and Terrell—4.

Mr. Mabry was excused from voting.

The resolutions, as amended, were then adopted.

Whereupon, the President appointed Messrs. Parks, Cobb, Robinson, Hamilton and Hewitt said committee.

Leave of absence was granted to Mr. Mabry.

On motion of Mr. Cunningham—

The Senate adjourned until 10 o’clock to-morrow.

WEDNESDAY, November 27, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

Upon a call of the roll, the following Senators answered to their names :

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Ervin, Hamilton, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton.

The Journal of yesterday was read and approved.

On motion—

The Senate adjourned until this evening 3 o’clock.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

On motion of Mr. Terrell—

The Senate adjourned until 10 o'clock to-morrow.

THURSDAY, November 28, 1872.

The Senate met pursuant to adjournment.

THANKSGIVING DAY.

Mr. Cooper moved that in deference to the proclamation of the President of the United States, and the Executive of this State, setting apart this day as a day of thanksgiving to Almighty God for His goodness and unmerited mercies to this people, that this Senate do adjourn, without transacting any business, until to-morrow at 10 o'clock.

Which was unanimously adopted.

FRIDAY, November 29, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

Upon a call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Hewitt, Jones, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton.

The Journal was read and approved.

The Senate then took a recess until twelve and a half o'clock.

The Senate met at the appointed hour.

Mr. Robinson introduced the following resolution, which was read and lost:

Resolved by the Senate of Alabama, That a committee

of three members of the Senate be appointed to visit Hon. Alexander McKinstry, Lieutenant Governor of the State of Alabama, and inform him that it is the desire of the Senate that he take his seat as presiding officer of the Senate, in compliance with the provisions of the constitution of the State; and also to inform him that to preside over its deliberations in his absence this Senate, in accordance with said constitution, has chosen the Hon. R. H. Ervin, Senator from Wilcox, its President.

SERGEANT-AT-ARMS.

On motion of Mr. Cobb—

Resolved, That the doorkeeper of this Senate, in the absence of a sergeant-at-arms, which office has not been created by this Senate, be instructed to see that the deliberations of this Senate be not obstructed, and that the quiet and good order of this Senate Chamber be preserved against the intrusion of all persons whatever, so that the regular order of its proceedings as the Senate of Alabama, in the Senate Chamber, be not disturbed.

On motion of Mr. Coleman—

Resolved, That the doorkeeper be authorized to appoint two hall attendants to wait in the Senate Chamber.

On motion of Mr. Robinson—

The Senate adjourned until 10 o'clock to-morrow.

SATURDAY, November 30, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

Upon the call of the roll the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Hewitt, Jones, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

The Journal of yesterday read and approved.

On motion of Mr. Hamilton—

Resolved, (the House of Representatives concurring,) That a joint committee of the two houses of the General

Assembly be appointed, to consist of three from the Senate and five from the House, to communicate to His Excellency the President of the United States, by telegraph, the precise facts attending the organization and action of this General Assembly to this date, and the obstacles which have been, and are interposed to prevent the exercise by this General Assembly of its powers under the constitution, and the performance of its constitutional duties; and that said committee be authorized, if they deem it best, to communicate with the President of the United States and the Congress, by address, in the name of this General Assembly, and cause the same to be presented by a proper delegate to be chosen by said committee.

The President thereupon appointed Messrs. Hamilton, Martin of Tuskaloosa, and Robinson said committee, on the part of the Senate.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
November 30, 1872. }

Mr. President:

The House has originated and passed the following bill, and ordered it to the Senate forthwith without engrossment:

To amend section 9 of an act entitled an act to establish a new charter for the city of Selma, approved Dec. 4, 1868.

ELLIS PHELAN,
Clerk.

The Senate then took up the House Message, and on motion of Mr. Martin of Conecuh the House bill—

To amend section 9 of an act entitled an act to establish a new charter for the city of Selma, approved Dec. 4, 1868.

Was read three times forthwith under a suspension of the constitutional rule and passed.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
November 30, 1872. }

Mr. President :

The House has adopted the accompanying Joint Resolution.

Committee on the part of House under said resolution Messrs. Jones and Purcell.

ELLIS PHELAN,
Clerk.

The House Joint Resolution was taken up and on motion of Mr. Robinson its further consideration was postponed until 1 o'clock, and it was made the special order for that hour.

Mr. Hewitt, by leave, introduced a bill to be entitled an act to amend an act entitled an act to repeal an act entitled an act to authorize the publication of legal and other notices in the State of Alabama, approved March 12th, 1868, and an act entitled an act to amend the same, approved October 18th, 1868.

Which was read three times under a suspension of the rule and passed.

JOINT RESOLUTION.

Mr. Terrell introduced the following Joint Resolution, which was read and lost.

Be it resolved by the Senate, (the House of Representatives concurring,) That a joint committee of one from the Senate and two from the House be appointed to wait upon His Excellency the Governor, David P. Lewis, and enquire of him the cause of the presence of Federal troops now bivouacked on the Capitol Grounds.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
 November 30, 1872. }

Mr. President:

The House concurs in Senate

JOINT RESOLUTION,

In relation to the appointment of a joint committee to communicate to His Excellency the President of the United States, the facts and circumstances attending the organization, &c., of this General Assembly.

Committee on part of the House, Messrs. Manning, Taylor, Hamilton, Brewer and Brown.

ELLIS PHELAN,
 Clerk.

Mr. Hewitt, by leave, introduced a bill to be entitled an act to repeal an act entitled an act to authorize the commissioners' court for Walker county to levy a special tax for the purpose of liquidating all the county indebtedness which has accrued since the war, and is unpaid up to 1st September, 1871, and approved February 9th, 1871.

Which was read the first and second times forthwith under a suspension of the constitutional rule and ordered to a third reading on to-morrow.

Mr. Cobb, by leave, introduced a bill to be entitled an act to repeal an act to regulate the publication of legal notices in the counties of Shelby, Walker, Baker, DeKalb, Cleburne, Marshall, Winston, Franklin, Coosa, Marion, Jefferson, St. Clair, Geneva, Covington, Bibb, Coffee, Dale and Lawrence, approved March 3, 1870, so far as the same relates to the counties of Shelby and Jefferson.

Which was read three times forthwith under a suspension of the constitutional rule and passed, and ordered to be sent at once to the House without engrossment.

On motion of Mr. Martin of Tuskaloosa—

The Senate took a recess for one hour.

The Senate met at the appointed hour.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
November 30, 1872. }

Mr. President:

The House has adopted the following

JOINT RESOLUTION.

Resolved, by the House of Representatives, (the Senate concurring,) That a joint committee of three from each house be appointed to wait upon His Excellency the Governor and ascertain from him whether the United States troops, now stationed near the Capitol, are so stationed by any agency or any act of His Excellency, and if so, what are the purpose or purposes of His Excellency in the premises;

Committee—Messrs. Jones, White and Franklin.

ELLIS PHELAN,
Clerk.

The Senate proceeded to the consideration of the House Message, and on motion of Mr. Cunningham the House joint resolution was laid on the table.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
November 30, 1872. }

Mr. President:

The House has originated and passed the following bill—

To prohibit the payment of taxes into the Treasury of the State.

And has ordered the same to be sent forthwith to the Senate without engrossment.

ELLIS PHELAN,
Clerk.

The Senate proceeded to the consideration of the

HOUSE MESSAGE.

House bill—

To prohibit the payment of taxes into the Treasury of the State,

Was read the first and second times forthwith, under a suspension of the constitutional rule.

Mr. Cunningham offered a substitute for the House bill.

On motion of Mr. Cooper—

The House bill and the substitute were made the special order for Monday, at 11 o'clock A. M.

On motion of Mr. Cooper—

The Senate adjourned until 10 o'clock, Monday.

MONDAY, December 2, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

The Journal of yesterday was read and approved.

On motion of Mr. Martin of Tuskaloosa—

The call of the Districts was dispensed with.

Mr. Martin of Tuskaloosa then announced to the Senate the death of Hon. N. L. Whitfield, a member of the House of Representatives from the county of Tuskaloosa, and on his motion a committee of three, consisting of Messrs. Martin of Tuskaloosa, Cooper and Terrell, was appointed to draft appropriate resolutions in respect to the death of Mr. Whitfield.

ADJOURNMENT.

On motion of Mr. Martin of Tuskaloosa—
The Senate, in honor of the deceased, adjourned until
10 o'clock to-morrow.

TUESDAY, December 3, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll the following Senators answered to their names :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

The Journal of yesterday was read and approved.

CALL OF THE DISTRICTS.

On the call of the Districts, the following bills were introduced :

By Mr. Edwards—

To make Malinda Ann Cain a free dealer.

Which was read once, and ordered to a second reading on to-morrow.

By Mr. Hewitt—

To repeal an act entitled "An act to authorize the publication of the laws of Alabama, approved October 10th, 1868," and an act entitled "An act to amend the same," approved December 19th, 1871.

Which was read three times forthwith, under a suspension of the constitutional rule, and passed.

By Mr. Hewitt—

To economize in the public printing, and to repeal section 123 of the Revised Code.

Which was read twice, under a suspension of the constitutional rule, and referred to a special committee of five, consisting of Messrs. Hewitt, Carmichael, Parks, Cunningham and Snodgrass.

By Mr. Carmichael—

To amend section 3704 of the Revised Code of Alabama.

Which was read twice forthwith, under a suspension of the constitutional rule, and referred to a special committee of three, consisting of Messrs. Carmichael, Cobb and Jones.

RESOLUTIONS.

Mr. Martin of Tuskaloosa, from the committee appointed to draft resolutions in relation to the death of Hon. N. L. Whittfield, late a member of the House of Representatives from the county of Tuskaloosa, reported the following,

Which were read and adopted, and ordered to be spread upon the Journal of the Senate :

A mysterious and overruling Providence has, in the dispensation of His inscrutable purposes, removed from amongst us one of the most worthy and esteemed members of the General Assembly of Alabama. Newton L. Whittfield, late a member of the House of Representatives from the county of Tuskaloosa, is no more. He died at his lodgings, in this city, of a violent attack of pneumonia, at the hour of two o'clock, on yesterday morning. But a few days ago he walked in our midst, in all the grandeur of his generous nature, an admirable specimen of a perfect man in all that constitutes that noblest work of God. To-day he sleeps with the lamented dead, at a time when the bereavement falls most heavily upon us in our deliberations as to the proper adjustment of the political difficulties environing our General Assembly. We needed the light of his well trained mind and enlarged experience, to direct by his counsel and enforce by his logic the reliable conclusions of his grasping intellect at this important crisis in the affairs of our State.

Submitting with becoming reverence to that Providence which denies to man the shaping of His ways, we feel it to be our duty to pay this humble tribute to his memory, that the archives of our State may hold *in memoriam* our appreciation of the man, the patriot and the statesman,

"Who is gone from the mountain,
Who is lost from the forest,
Like a summer-dried fountain,
When our needs are the sorest."

Therefore—

Be it resolved by the Senate of Alabama, That the sudden and unexpected death of the Hon. N. L. Whitfield, a member of the House of Representatives from Tuskaloosa county, fills our hearts with the deepest sorrow.

2d. That in the death of Mr. Whitfield we recognize the loss of one of the purest and ablest of the members of the General Assembly; a patriot whose loss at this time is a calamity to the State.

3d. That we extend to his bereaved family and friends the assurance of our deepest sympathy in this dark hour of their affliction.

4th. That a copy of these resolutions be furnished by our Secretary to the family of the deceased, after being spread upon the Journal of the Senate.

SECRET SESSION.

On motion of Mr. Cobb—

The Senate then went into secret session.

Mr. Cobb offered

JOINT RESOLUTIONS,

Appointing Commissioners to go to Washington City.
Which were adopted.

Mr. Cobb offered a

JOINT MEMORIAL

To the Congress of the United States.

Which was adopted, and ordered to be sent forthwith to the House, with a request that it be considered in secret session.

On motion—

The Secretary of the Senate was instructed to furnish the Commissioners to go to Washington City with a certified copy of the communication of His Excellency the Governor, David P. Lewis, to Messrs. Martin and others, the joint committee appointed by the Senate and House

of Representatives to notify His Excellency of his election.

On motion—

The Senate passed from secret session to open session.

SENATOR IN CONGRESS.

On motion of Mr. Robinson—

The Senate in open session, by a *viva voce* vote of each member present, then proceeded to name a person for Senator in Congress from the State of Alabama, for the term beginning the 4th day of March, A. D. 1873, this being the second Tuesday after the meeting and organization of the General Assembly.

Mr. Coleman placed in nomination Hon. George S. Houston, of Limestone county.

Mr. Snodgrass placed in nomination Hon. Richard W. Walker, of Madison county.

Mr. Carmichael placed in nomination Hon. Taul Bradford, of Talladega county.

Those who voted for Mr. Houston are—

Messrs. President, Coleman, Cooper, Driesbach, Edwards, Mabry and Walton—7.

Those who voted for Mr. Walker are—

Messrs. Jones, Martin of Tuskaloosa, Parks, Robinson and Snodgrass—5.

Those who voted for Mr. Bradford are—

Messrs. Carmichael, Cobb, Cunningham, Hewitt, Martin of Conecuh and Terrell—6.

The whole number of votes cast, eighteen.

The Senate failed to give a majority of the whole number of votes to either of the persons named for Senator in Congress from the State of Alabama.

On motion of Mr. Snodgrass—

The Senate adjourned until 3 o'clock this afternoon.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

HOUSE MESSAGES.

The House bill—

To prohibit the payment of taxes into the Treasury of the State,

And the substitute therefor, were, on motion of Mr. Martin of Tuskaloosa, referred to a special committee of five, consisting of Messrs. Cobb, Cunningham, Walton, Coleman and Hewitt.

BILLS ON THIRD READING.

Bill to repeal an act to authorize the commissioners court of Walker county to levy a special tax for the purpose of liquidating all the county indebtedness which has accrued since the war, and is unpaid, up to 1st September, 1871, approved February 9th, 1871,

Was read the third time and passed.

STANDING COMMITTEES.

Mr. Martin of Tuskaloosa offered the following

PREAMBLE AND RESOLUTIONS,

Which were read and adopted :

WHEREAS, The Hon. Alexander McKinstry, Lieutenant Governor of Alabama, has hitherto failed to take his seat as President of the Senate, and to discharge the duties incumbent upon him as said officer ; and

Whereas, it is necessary, in order to facilitate the dispatch of business coming before this Senate, that the standing committees be appointed ; therefore,

Be it resolved, That Hon. R. H. Ervin, the President *pro tempore* of the Senate, be requested to appoint such standing committees at as early a day as practicable.

Resolved, 2d. That the standing committees, when appointed as provided for in the preceding resolution, shall continue only for and during the time of the present session of the Senate.

On motion—

The Senate then adjourned until 10 o'clock to-morrow.

WEDNESDAY, December 4, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton.

The Journal of yesterday read and approved.

CALL OF DISTRICTS.

On the call of the Districts, Mr. President (Mr. Cooper in the chair) introduced the following bills:

To regulate the holding of special terms of the circuit courts of this State;

Which was read twice forthwith, under a suspension of the constitutional rule, and referred to the Judiciary Committee, when raised.

To require the clerk of the circuit court of Wilcox county to set the cases upon the State docket of his court for trial on particular days;

Which was read three times forthwith, under a suspension of the constitutional rule, and passed.

To regulate the sale of property levied upon under execution in Wilcox county;

Which was read three times forthwith, under a suspension of the constitutional rule, and passed.

To regulate the trial of attachment cases:

Which was read three times forthwith, under a suspension of the constitutional rule, and referred to the Judiciary Committee, when raised.

By Mr. Carmichael—

To prevent the carrying of sling-shots;

Which was read twice forthwith, under a suspension of the constitutional rule, and referred to the Judiciary Committee, when raised.

JOINT MEMORIAL.

Mr. Jones introduced the following joint memorial:

Joint memorial to Congress asking that payment be made to the owners of cotton unlawfully seized and taken from them by United States treasury agents, or the value or proceeds thereof ;

Which was read and adopted.

BILLS ON SECOND READING.

To make Malinda Ann Cain a free dealer ;

Was read the second time, and,

On motion of Mr. Edwards—

Referred to the Committee on Grievances and Disabilities, when raised.

Those who voted in the affirmative are—

Messrs. President, Coleman, Cooper, Driesbach, Edwards, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass, and Walton—12.

Those who voted in the negative are—

Messrs. Carmichael, Cobb, Cunningham, Hewitt, Robinson, and Terrell—6.

REPORTS FROM COMMITTEES.

Mr. Carmichael, from the committee appointed to prepare an address to the people of Alabama, reported that the committee had discharged that duty, and submitted the accompanying address.

On motion of Mr. Carmichael—

The reading of the address was suspended, and one thousand copies ordered to be printed for the use of the Senate.

JOINT ASSEMBLY.

The hour of 12 o'clock M. having arrived,

The Senate repaired to the hall of the House of Representatives, and the two houses convened in joint assembly to proceed with the election of a Senator in Congress for the term beginning the 4th day of March, A. D. 1873.

On the call of the roll the following Senators answered to their names :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton—18.

On the call of the roll, the following members answered to their names:

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Tuskaloosa, Brown of Jackson, Chapman, Clopton, Cody, Cowan, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Manning, Musgrove, McCoy, McHugh, McNeil, Morgan, Murphree, Peddy, Purcell, Renfro, Slater, Smith of Tallapoosa, Smith of Bibb, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams, and Wilkinson—49.

Total 67.

The Secretary of the Senate and the Clerk of the House then read the Journals of their respective houses of yesterday, and it appearing that no person had received a majority of the votes for Senator in Congress, the House having failed to vote, for the reason that no quorum was present, the joint assembly, by a *viva voce* vote of each member present, proceeded to choose a Senator in Congress for the term beginning the fourth day of March, A. D. 1873.

Mr. Manning of the House placed in nomination Hon. R. W. Walker of Madison county.

Mr. Coleman of the Senate placed in nomination Hon. George S. Houston of Limestone county.

Mr. Hamilton of the House placed in nomination Hon. W. S. Mudd of Jefferson county.

Mr. Carmichael of the Senate placed in nomination Hon. Taul Bradford of Talladega county.

Mr. Dent of the House placed in nomination Hon. John Cochran of Barbour county.

Those who voted for Mr. Walker are—

Messrs. Jones, Parks and Snodgrass, of the Senate;

And Messrs. Speaker, Anderson, Barrow, Brewer, Boyd, Broadnax, Brown of Jackson, Draxler, Gresham, Kimbrough, Manning, McNeil, Morgan, Stribling, Taylor, Vaughn, and Whatley, of the House—20.

Those who voted for Mr. Houston are—

Messrs. President, Coleman, Edwards, and Walton, of the Senate;

And Messrs. Barnett, Clopton, Franklin, Greene, Jones, Musgrove, Murphree, Peddy, Slater, Stallworth, and Weatherford, of the House—15.

Those who voted for Mr. Mudd are—

Messrs. Hewitt and Martin of Tuskaloosa, of the Senate;

And Messrs. Galaspie, Hamilton and Kelly, of the House—5.

Those who voted for Mr. Bradford are—

Messrs. Cobb, Cooper, Cunningham, Driesbach, Martin of Conecuh, Robinson, and Terrell, of the Senate;

And Messrs. Ash, Brown of Tuskaloosa, Chapman, Cowan, Elliott, Howell, McHugh, Renfroe, Smith of Tallapoosa, Smith of Bibb, and White, of the House—18.

Those who voted for Mr. Cochran are—

Messrs. Carmichael and Mabry, of the Senate;

And Messrs. Cody, Dent, Lee, McCoy, Purcell, Williams and Wilkinson, of the House—9.

No person received a majority of the whole votes cast.

The joint assembly then adjourned, and the Senate repaired to its Chamber.

The President announced the following Standing Committees:

FINANCE AND TAXATION.

Messrs. Cunningham, Walton and Cooper.

JUDICIARY.

Messrs. Hamilton, Cobb, Hewitt, Martin of Tuskaloosa and Martin of Conecuh.

EDUCATION.

Messrs. Martin of Tuskaloosa, Terrell and Robinson.

INTERNAL IMPROVEMENTS.

Messrs. Cobb, Cooper, Carmichael, Driesbach and Edwards.

PRINTING.

Messrs. Coleman, Mabry and Snodgrass.

PRIVILEGES AND ELECTIONS.

Messrs. Hewitt, Robinson and Parks.

ENROLLED BILLS.

Messrs. Carmichael, Terrell and Jones.

APPROPRIATIONS.

Messrs. Martin of Conecuh, Walton and Cunningham.

FEDERAL RELATIONS.

Messrs. Cooper, Martin of Conecuh and Martin of Tus-
kaloosa.

ENGROSSED BILLS.

Messrs. Terrell, Parks and Mabry.

CONTINGENT FUND.

Messrs. Jones, Hewitt and Snodgrass.

The Senate adjourned until 10 o'clock to-morrow.

THURSDAY, December 5th, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by the Rev. Mr. White of the House.

ROLL CALL.

The roll was called and the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—18.

Journal of yesterday was read and approved.

The Senate then took an informal recess.

The Senate was called to order by the President.

JOINT ASSEMBLY.

The hour of 12 M. having arrived, the Senate repaired to the Hall of the House of Representatives, and the two Houses convened in joint assembly pursuant to adjournment, to proceed with the election of a Senator in Congress, for the term beginning the 4th day of March, A. D., 1873.

The following Senators were present :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskalooza, Parks, Robinson, Snodgrass, Terrell and Walton—18.

The following members of the House were present :

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Boyd, Brewer, Broadnax, Brown of Jackson, Brown of Tuskaloosa, Chapman, Clopton, Cody, Cowan, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Mancill, Manning, McCoy, McHugh, McNeil, Morgan, Murphree, Musgrove, Purcell, Renfroe, Slater, Smith of Bibb, Smith of Tallapoosa, Stallworth, Stribling, Taylor, Vaughan, Weatherford, Whatley, White, Wilkinson and Williams—49.

The joint assembly then proceeded to ballot for a Senator in Congress, for the term beginning the 4th day of March, 1873.

Mr. Hewitt withdrew the name of Hon. W. L. Mudd.

Those who voted for Mr. Walker are—

Messrs. Jones, Parks and Snodgrass, of the Senate, and Messrs. Speaker, Anderson, Barrow, Brewer, Boyd, Brown of Tuskaloosa, Brown of Jackson, Cowan, Greene, Gresham, Kimbrough, Manning, McCoy, McNeil, Morgan, Slater, Taylor and Vaughan, of the House—21.

Those who voted for Mr. Houston are—

Messrs. President, Coleman, Cooper, Edwards, Martin of Tuskaloosa and Walton, of the Senate, and Messrs. Broadnax, Clopton, Draxler, Franklin, Hamilton, Jones, Kelly, Lee, Musgrove, Murphree, Purcell, Smith of Tallapoosa, Stallworth, Weatherford and Whatley, of the House—21

Those who voted for Mr. Bradford are—

Messrs. Carmichael, Cobb, Cunningham, Driesbach, Hewitt, Martin of Conecuh, Robinson and Terrell, of

the Senate, and Messrs. Ash, Barnett, Chapman, Elliott, Galaspie, Howell, Mancill, McHugh, Renfro, Smith of Bibb, Stribling, White and Wilkinson, of the House—21.

Those who voted for Mr. Cochran are—

Messrs. Mabry of the Senate, and Cody, Dent and Williams of the House—4.

No person received a majority of the whole votes cast.

On motion—

The joint assembly then adjourned until 12 o'clock M. to-morrow.

The Senate repaired to its Chamber.

Mr. Martin of Tuskaloosa offered the following

RESOLUTION ;

Which was unanimously adopted.

Resolved, That in respect to the memory of Mr. Bennett, a member elect of the Legislature from Hale county, but who has not taken his seat, who departed this life on last night, the Senate do now adjourn until 10 o'clock to-morrow.

FRIDAY, December 6th, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by the Rev. Mr. White of the House.

ROLL CALL.

On the call of the roll, the following Senators answered to their names :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Edwards, Driesbach, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell, and Walton—18.

The Journal of yesterday read and approved.

CALL OF DISTRICTS.

On the call of the districts, Mr. Hewitt introduced the following bill :

To better secure mechanics and others for their labor and materials furnished, which was read twice forthwith, under a suspension of the constitutional rule and

Referred to the Judiciary Committee.

REPORTS FROM COMMITTEES.

Mr. Hewitt from the special committee to whom was referred the House bill to prohibit the payment of taxes into the treasury of the State, and the Senate substitute therefor, reported adversely thereto,

And the report was concurred in by the Senate.

On motion of Mr. Hewitt—

The Senate took a recess until 12 o'clock m.

The Senate met at the appointed hour.

JOINT CONVENTION.

The hour of 12 m. having arrived,

The Senate repaired to the Hall of the House of Representatives, and the two houses convened in joint assembly, to proceed with the election of a Senator in Congress, for the term beginning the 4th day of March A. D. 1873, pursuant to adjournment.

ROLL CALL.

Upon a call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Cooper, Cunningham, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—16.

The following members of the House were present, and answered to their names on the call of the roll.

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Jackson, Brown of Tuskaloosa, Chapman, Clopton, Cody, Cowan, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Man-

cill, Manning, Musgrove, McCoy, McHugh, McNiel, Morgan, Murphree, Peddy, Purcell, Renfro, Slater, Smith of Tallapoosa, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams and Wilkinson—49.

Total—65.

There not being a majority of all the members elected to both Houses of the General Assembly present,

The joint assembly adjourned until 12 o'clock to-morrow.

The Senate repaired to its Chamber.

SECRET SESSION.

The Senate went into secret session.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
December, 4th, 1872. }

Mr. President :

The House has concurred in the Senate joint resolution, appointing three commissioners to proceed to Washington City ;

And, also in Senate joint memorial to the Congress of the United States ;

And, has also passed Senate bill—

To repeal an act to regulate the publication of legal notices in the county of Shelby, and other counties, approved March 3d, 1870, so far as the same relates to the counties of Shelby and Jefferson.

ELLIS PHELAN,
Clerk of House.

The Senate passed from secret into open session.

Mr Terrell moved to reconsider the vote by which the Senate concurred in the adverse report of the special committee to whom was referred the House bill, to prohibit the payment of taxes into the treasury of the State, and the Senate substitute therefor ;

Which motion was lost.

On motion of Mr. Robinson—

The Senate adjourned until 10 o'clock to-morrow.

SATURDAY, December 7, 1872.

The Senate met pursuant to adjournment.

Upon a call of the roll, the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass, Terrell Walton, and Jones—17.

Mr. Jones moved a recess until 12 o'clock.

Which motion was carried.

The Senate met at the appointed hour.

The hour of twelve, meridian, having arrived the Senate repaired to the hall of the House of Representatives to proceed with the election of a Senator in Congress, pursuant to adjournment, and the two houses convened in joint assembly for said purpose.

Upon the call of the roll the following Senators answered to their names:

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass, Terrell and Walton—17.

The following members of the House answered to their names:

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Tuskaloosa, Brown of Jackson, Chapman, Clopton, Cody, Cowan, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Mancill, Manning, Musgrove, McCoy, McHugh, McNeil, Morgan, Murphree, Purcell, Renfroe, Slater, Smith of Bibb, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams and Wilkinson—48.

Total 65.

There not being a majority of all the members elected to both houses of the General Assembly present, the joint assembly adjourned until twelve o'clock Monday.

The Senate repaired to its Chamber.
 On motion of Mr. Martin of Tuskaloosa—
 The Senate adjourned until 10 o'clock Monday.

MONDAY, December 9, 1872.

The Senate met pursuant to adjournment.

The following Senators were present :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mrbry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass, Terrell and Walton—17

The Journal of yesterday was read and approved.

CALL OF THE DISTRICTS.

On the call of the districts the following bills were introduced :

By Mr. Coleman—

To amend an act entitled an act to establish a new charter for the town of Athens, in the county of Limestone, approved March 8, 1871.

By Mr. Cobb—

To repeal an act entitled an act to repeal section six, (unproperly written section two,) of an act entitled an act to incorporate the Briarfield Iron Works Company, of the county of Bibb, approved August 11, 1868.

Which were severally read three times forthwith under a suspension of the constitutional rule and passed.

And ordered to be sent forthwith to the House without engrossment.

JOINT RESOLUTION.

Mr. Martin of Tuskaloosa offered the following joint resolution :

Be it resolved, (two-thirds of each House concurring,)
 That the present session of this General Assembly be, and the same is hereby, extended so that the same may continue for more than thirty days, and so long as both houses may think proper for the transaction of business.

On motion of Mr. Coleman, the joint resolution was laid on the table.

On motion of Mr. Martin of Conecuh—
The Senate took a recess until 12 o'clock.

The Senate met at the appointed hour.

JOINT CONVENTION.

The hour of twelve, meridian, having arrived, the Senate repaired to the hall of the House of Representatives, and the two houses met in joint assembly, pursuant to adjournment, to proceed with the election of a Senator in Congress.

On the call of the rolls of the respective houses, there were present—

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass, Terrell and Walton of the Senate—17.

And—

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Tuskaloosa, Brown of Jackson, Chapman, Clopton, Cody, Cowan, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Kelly, Kimbrough, Lee, Mancill, Manning, Musgrove, McCoy, McHugh, McNeil, Morgan, Murphree, Purcell, Renfroe, Slater, Smith of Tallapoosa, Smith of Bibb, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams and Wilkinson, of the House—48.

Total 65.

There not being a majority of all the members elected to both houses of the General Assembly present the joint assembly adjourned until 12 o'clock to-morrow.

The Senate repaired to its Chamber.

On motion of Mr. Martin of Tuskaloosa—

The Senate adjourned until 10 o'clock to-morrow.

TUESDAY, December 10, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Moses Padgett.

ROLL CALL.

On the call of the roll the following Senators answered to their names :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—18.

The Journal of yesterday was read and approved.

JOINT CONVENTION.

The hour of twelve, meridian, having arrived,

The Senate repaired to the hall of the House of Representatives to proceed with the election of a Senator in Congress, and

The two houses met in joint assembly pursuant to adjournment.

On the call of the roll of the respective houses there were present :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton, of the Senate—18 ; and

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Tuskaloosa, Brown of Jackson, Chapman, Clopton, Cody, Cowan, Corsbie, Crawford, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Mancill, Manning, Musgrove, McCoy, McHugh, McNeil, Morgan, Murphree, Purcell, Renfroe, Slater, Smith of Tallapoosa, Smith of Bibb, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams and Wilkinson, of the House—51.

Total, 69.

Mr. Carmichael withdrew the name of Hon. Taul Bradford.

Mr. Boyd withdrew the name of Hon. Richard W. Walker.

Mr. Coleman withdrew the name of Hon. George S. Houston.

Mr. Dent withdrew the name of Hon. John Cochran.

Mr. Terrell placed in nomination Hon. Francis W. Sykes, of Lawrence county.

Those who voted for Mr. Sykes are—

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton, of the Senate—18; and

Messrs. Speaker, Anderson, Ash, Barnett, Barrow, Brewer, Boyd, Broadnax, Brown of Tuskaloosa, Brown of Jackson, Chapman, Clopton, Cody, Cowan, Corsbie, Crawford, Dent, Draxler, Elliott, Franklin, Galaspie, Greene, Gresham, Hamilton, Howell, Jones, Kelly, Kimbrough, Lee, Mancill, Manning, Musgrove, McCoy, McHugh, McNeil, Morgan, Murphree, Purcell, Renfroe, Slater, Smith of Bibb, Smith of Tallapoosa, Stallworth, Stribling, Taylor, Vaughn, Weatherford, Whatley, White, Williams and Wilkinson, of the House—51.

Total, 69.

Mr. Sykes having received all the votes cast, being a majority of all the members elected to the General Assembly, he was duly declared elected Senator in Congress from the State of Alabama for the term prescribed by the constitution and laws.

On motion of Mr. Hewitt—

The Joint Assembly then adjourned.

The Senate repaired to its chamber.

CALL OF DISTRICTS.

On the call of the Districts the following bills were introduced:

By Mr. Hewitt—

To regulate elections in Alabama.

Which was read twice forthwith, under a suspension of the constitutional rule, and

Referred to the Judiciary Committee.

By Mr. Hewitt—

To exempt certain property from levy and sale under process from the courts of this State.

Which was read twice forthwith, under a suspension of the constitutional rule, and

Referred to the Judiciary Committee.

By Mr. Hewitt—

To repeal an act entitled "An act to relieve disabilities of persons against whom a divorce from the bonds of

matrimony has been decreed," approved February 7th, 1870.

Which was read twice forthwith, under a suspension of the constitutional rule, and

Referred to a special committee, consisting of Messrs. Martin of Conecuh, Martin of Tuskaloosa, and Coleman.

By Mr. Hewitt—

To amend section 87 of revenue law of 1868.

Which was read twice, under a suspension of the constitutional rule, and

Referred to the Judiciary Committee.

By Mr. Terrell—

To repeal an act entitled "An act to amend an act entitled 'An act to establish revenue laws of the State of Alabama,'" approved February 9th, 1870.

Which was read twice forthwith, under a suspension of the constitutional rule, and

Referred to the Committee on Finance and Taxation.

By Mr. Robinson—

To repeal an act entitled "An act to suppress murder, lynching and assaults and batteries," approved December 28th, 1868.

Which was read three times forthwith, under a suspension of the constitutional rule, and passed.

RESOLUTIONS.

Mr. Robinson introduced resolutions in relation to persons claiming to be entitled to seats now occupied by members on the floor of the Senate, and of those holding certificates of election who have failed to qualify as such members.

Which were read, and

On motion of Mr. Parks—

Made the special order for 11 o'clock to-morrow.

On motion of Mr. Terrell—

The joint resolution extending the present session of the General Assembly, was taken from the table.

On motion of Mr. Carmichael—

The further consideration of the same was postponed until 10 o'clock to-morrow, and it was made the special order for that hour.

On motion of Mr. Martin of Tuskaloosa—

The Senate adjourned until 10 o'clock to-morrow.

WEDNESDAY, Dec. 11, 1872.

The Senate met pursuant to adjournment.

Mr. Cooper announced to the Senate the absence of the President *pro tem.* on account of sickness.

On motion of Mr. Martin of Tuskaloosa—

Mr. Cooper was elected President *pro tem.* of the Senate, in the absence of Mr. Ervin, the President *pro tem.*

The Journal of yesterday was read and approved.

SPECIAL ORDER.

The hour of 10 o'clock having arrived,

The Senate proceeded to the consideration of the special order for that hour, it being the joint resolution extending the present session of the General Assembly.

The joint resolution was unanimously adopted—

Yeas, 17.

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—17.

The joint resolution was ordered to be sent forthwith to the House without engrossment.

CALL OF DISTRICTS.

On the call of the districts the following bills were introduced :

By Mr. Coleman—

To amend section 796, (clause two), of the Revised Code of Alabama.

By the same,

To require the county treasurer of Lauderdale county, to pay the fees of county officers in certain cases ;

Which bills were severally read twice under a suspension of the constitutional rule, and,

Referred to the Judiciary Committee.

By Mr. Hewitt—

To change the name of the Elyton, Corinth and Tennessee River Railroad Company ;

Which was read three times under a suspension of the constitutional rule and passed.

By Mr. Hewitt—

To amend section 11 of an act entitled an act to furnish the aid and credit of the State of Alabama, for the purpose of expediting the construction of railroads within the State;

Which was read twice forthwith under a suspension of the constitutional rule.

Mr. Carmichael moved to amend by inserting between the words "company" and "shall" in the proviso the words "and the Southeastern Alabama Railroad Company;"

Which motion was adopted, and the bill as thus amended, was

Referred to the Committee on Internal Improvements.

By Mr. Cunningham—

For the relief of Eddy Ann Henry, of Talladega county, from the disabilities of non-age.

By Mr. Parks—

To establish a court of chancery in Crenshaw county.

By the same—

To amend section 1985 of the Revised Code;

Which bills were severally read twice forthwith, under a suspension of the constitutional rule, and,

Referred to Judiciary Committee.

By Mr. Parks—

For the relief of Caswell Whittington, and Calvin Whittington, of Pike county;

Which was read twice forthwith, under a suspension of the constitutional rule.

Mr. Robinson moved to indefinitely postpone the consideration of the bill;

Which was lost—ayes, 5; noes, 12.

Yeas—Messrs. Carmichael, Hewitt, Jones, Robinson, and Terrell—5.

Nays—Messrs. Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Mabry, Martin of Conecuh, Martin of Tuskalooza, Parks, Snodgrass and Walton—12.

The bill was then referred to the Committee on Local Legislation when raised.

SPECIAL ORDER.

The hour of 11 o'clock having arrived,

The Senate proceeded to the consideration of the special order for that hour, it being the resolutions in relation to persons claiming to be entitled to seats now oc-

cupied by members on the floor of the Senate, and of those holding certificates of election who have failed to qualify as such members.

By leave, Mr. Robinson withdrew the resolutions.

RESOLUTIONS.

Mr. Robinson introduced the following resolution:

Which was adopted ;

Resolved, That the contest inaugurated by George P. Harrison, against John L. Pennington, who holds the certificate of election as Senator for the 13th district, but who has failed to qualify as a member of this body, be referred to the Committee on Privileges and Elections, and that said committee be required to proceed to the investigation and determination of said contest, and that they report their action thereon to this body as soon as practicable.

REPORTS FROM STANDING COMMITTEES.

Mr. Cobb, from the Committee on Judiciary, reported favorable on the bill to repeal an act entitled an act to exempt from administration property of decedents, and vest titles in the widow or child, or children, approved February 8th, 1872.

The bill was ordered to a third reading.

SECRET SESSION.

On motion of Mr. Parks—

The Senate went into secret session.

Without transacting any business, the Senate went from secret session into open session.

MESSAGE FROM THE GOVERNOR,

When one Paul Strobach entered the Senate Chamber, representing himself as the sheriff of the county of Montgomery, and announced a message from the Governor, which, by leave, said Strobach read as follows, namely—

EXECUTIVE DEPARTMENT, }
 STATE OF ALABAMA, }
 Montgomery, December 11, 1872. }

*To Paul Strobach, Esq., Sheriff of Montgomery county,
 Alabama :*

These are to authorize and direct you in the name and authority of the State of Alabama, and to command you, to take possession of the two rooms in the Capitol building, one known as the room in which the Senate of the State of Alabama usually convenes at its sessions, and also to command you to take possession of the room in the said Capitol building in which the House of Representatives usually convenes at its sessions, and to hold the same subject to my order.

You will execute this warrant and make your return on the same without delay.

Given under my hand and the great seal of the State, at the city of Montgomery, this the eleventh day of December, A. D. 1872, and of independence of the United States the ninety-seventh year.

DAVID P. LEWIS,
 Governor of Alabama.

By the Governor :

PAT RAGLAND,
 Secretary of State.

Mr. Terrell, thereupon, offered the following Preamble and Resolution :

WHEREAS, Paul Strobach who this day presented himself as the Sheriff of the county of Montgomery in the Senate Chamber, while said body was in open session, and in the exercise of its rightful authority, and who, without the authority of law, demanded the surrender and possession of the Senate Chamber, in the Capitol building, in the city of Montgomery and State of Alabama ; therefore,

Be it resolved by the Senate, That Paul Strobach is in contempt of this body and that the Sergeant-at-Arms do now take charge of said Paul Strobach and him in custody keep for the period of forty-eight hours to date, from twelve o'clock noon to-day, unless sooner released by this Senate.

Mr. Robinson proposed to amend the resolution by inserting the words, "and thereby obstructed the proceedings of this body," after the word "Alabama" in the preamble.

Mr. Cobb offered the following resolution as a substitute for the original resolution and amendment, which was adopted :

WHEREAS, Paul Strobach, under an alleged warrant or order from D. P. Lewis as Governor of the State of Alabama, has interrupted the proceedings of this body, while in session, and has acted in open contempt of its rights and privileges by demanding possession of the Senate Chamber ;

Resolved, therefore, That said Paul Strobach, for such disorderly and contemptuous behaviour, be kept in custody of the Sergeant-at-Arms forty-eight hours from the hour of twelve noon this day, unless sooner released by order of the Senate.

And the resolution as thus amended was adopted.

Thereupon the Doorkeeper, acting as Sergeant-at-Arms, took said Paul Strobach into custody.

On motion of Mr. Martin of Tuskaloosa—

The Senate proceeded to the election of a Sergeant-at-Arms of the Senate.

Mr. Martin of Tuskaloosa placed in nomination W. W. Allen of Montgomery county.

Those who voted for Mr. Allen are—

Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—17.

Mr. Allen having received all the votes cast was duly declared elected Sergeant-at-Arms of the Senate for the present session, was qualified and entered upon the discharge of the duties of his office.

By leave, Paul Strobach stated to the Senate that the duty he had been called upon to perform was an unpleasant duty to himself, and that he only appeared at the command of the Governor, without intending any disrespect to the Senators as a body or as individuals.

On motion of Mr. Martin of Tuskaloosa—

The Senate resolved itself into secret session.

Mr. Martin of Conecuh offered the following resolution:

Resolved, That the Sergeant-at-Arms be and he is hereby instructed to retain possession of the Senate

Chamber when the Senate is not in session, and that he be authorized to summon such *posse* as may be necessary for that purpose ; and to call on the United States troops, if he deems proper so to do.

Mr. Cobb offered the following resolution as a substitute :

Resolved, That the Sergeant-at-Arms be instructed to retain possession of the Senate Chamber until an armed military force presents itself, demanding the possession of this Senate Chamber.

On motion of Mr. Hewitt—

The substitute was laid on the table, and

The original resolution was adopted.

The Senate then passed from secret into open session.

Mr. Jones offered the following resolution, which was adopted :

WHEREAS, Paul Strobach has explained to the Senate that in the execution this day of the mandate of His Excellency, the Governor, he was only acting in the unpleasant performance of what he considered to be an official duty ; and whereas, by the conviction and punishment already inflicted upon said Paul Strobach, the Senate has vindicated itself from his contemptuous conduct ; therefore,

Be it resolved by the Senate, That the Sergeant-at-Arms be instructed to release said Paul Strobach from custody at 3 o'clock P. M. to-day.

Ayes, 15 ; noes, 2.

Ayes—Messrs. Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Mabry, Martin of Tuskaloosa, Robinson, Snodgrass, Terrell and Walton—15.

Noes—Messrs. Martin of Conecuh and Parks—2.

On motion of Mr. Cunningham—

The Senate adjourned until 10 o'clock to-morrow.

THURSDAY, December 12, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Mr. White of the House.

The Journal of yesterday was read and approved.
 On motion of Mr. Cobb—
 The Senate took a recess until 12 o'clock.

The Senate met at the appointed hour.
 The following communication from the Governor was received by his page :

EXECUTIVE DEPARTMENT, }
 STATE OF ALABAMA, }
 Montgomery, December 12, 1872. }

*Dr. R. H. Ervin, President, and Democratic Members
 of Legislature meeting in the Capitol, Montgomery,
 Ala. :*

GENTLEMEN—I have to inform you that I have received a long telegram from the Department of Justice, suggesting a basis for the adjustment of the question connected with the organization of the General Assembly. While informing you of it, though informally, I wish to add that I shall submit to you, as well as to the General Assembly at the Court-room, copies of the same, and a communication from this Department touching the same.

I have the honor to be,

Your obedient servant,

DAVID P. LEWIS,
 Governor.

On motion of Mr. Cobb—

The communication from the Governor was laid upon the table until the plan of adjustment shall be received.

The following communication from the Governor was received, by his page :

STATE OF ALABAMA, }
 EXECUTIVE DEPARTMENT, }
 Montgomery, December 12, 1872. }

Dr. R. H. Ervin, President, and the Democratic Senators and Members of the Legislature, at the Capitol :

I have the honor herewith to submit to you a copy of a telegram received by me from Hon. George H. Williams

of the Department of Justice, Washington City, proposing terms for adjustment of the questions involved in the contests respecting the organization of our General Assembly.

When it is remembered, that there has been a full and able representation of the merits of the controversy by authorized commissioners, *pro* and *con*, who have personally appeared before the Department of Justice, we are authorized to receive these suggestions as a gentle intimation of the convictions of the law officer of the United States Government of his views of what is right. And allow me to say, that we should acquiesce in it with more cheerfulness, since it comes rather as friendly advice, than as a command.

While I have heretofore carefully refrained from sanctioning or condemning any plan that was under consideration, I feel it my duty to declare, that these suggestions of the Attorney-General should be unhesitatingly accepted, and carried out in good faith and sincerity of purpose.

Allow me to add, that our General Assembly will then, both in members and *animus*, be in a more hopeful condition for the important legislation that the interests of the State demand, than by any other solution that is likely to be attained.

I have the honor to be

Your obedient servant,

DAVID P. LEWIS,
Governor.

WASHINGTON, D. C., Dec. 11, 1872.

To Governor D. P. Lewis:

Two organizations at Montgomery, Alabama, claiming to be the General Assembly of that State, have appealed to the President, and with his approval I submit as a plan of compromising the difficulty the following:

1st. Officers of each organization shall tender their resignations, to take effect upon the permanent organization of a House of Representatives as hereinafter provided.

2d. On the — inst. the hall of the House in the Capitol shall be vacant, and at twelve o'clock of that day all the persons holding certificates of election shall assemble therein, but the persons holding the certificate of Secre-

tary Ragland shall be the only representatives seated from Barbour county, and shall make, in the usual manner, a temporary organization.

3d. Two tellers, one Republican and one Democrat, shall be appointed by the Speaker *pro tem.*, who shall publicly and in the presence of the House count the votes cast for Representatives in the county of Marengo, and for that purpose they shall take the returns of the precinct inspectors of said county, or in case they can not be procured, the evidence of said inspectors so far as the same may be necessary to ascertain the actual vote cast as aforesaid, and the persons found upon such count to have the highest number of votes for Representatives shall be seated as such from said county; but the persons now holding certificates of election as representatives from Marengo shall not vote upon or in said temporary organization, nor shall any business, other than deciding the contest as to said county, be transacted during such organization.

4th. When such contest is determined, the House shall make a permanent organization in the usual way.

5th. On said — inst. the Senate Chamber shall be vacant, and at 12 o'clock the persons holding certificates of election as Senators shall assemble therein and organize, the Lieutenant Governor presiding, with the person holding the certificate of Secretary Ragland in his seat as the only Senator from Barbour county, and the votes for Senator in Marengo county shall be counted in the same way and upon the same kind of evidence as is hereinbefore provided for the House contest as to said county; and upon such count the person found to have the highest number of votes for Senator from said county shall be seated as such, but the person now holding the certificate of election to the Senate from said county shall not vote upon any question while the contest about his seat is pending; and then the contest as to the district comprising the counties of Butler and Conecuh shall be decided in the same way and upon the same kind of evidence, and the person now holding the certificate as Senator from said district shall not vote upon any question before he is declared elected upon a count of the votes of said district as aforesaid, nor shall the Senate do any other business before these contests are settled. No person not holding a certificate of election shall take his seat in the body until his right thereto is affirmed as above provided.

All those claiming to be members and seated in either organization shall be allowed mileage and *per diem* compensation prior to the temporary organization as hereinbefore provided for; after which persons holding certificates of election from Secretary Parker from Barbour county shall cease to draw pay; and those contesting the seats for Marengo and the district of Butler and Conecuh, who are finally ejected, shall be allowed *per diem* pay until said contests are respectively ended, and the officers and employees of each organization shall be paid the usual compensation.

GEO. H. WILLIAMS,
Attorney-General.

Mr. Terrell offered the following

JOINT RESOLUTION :

Be it resolved by the Senate, the House concurring, That the communication of the Governor, together with the plan or proposition of compromise of the Attorney General of the United States, be referred to a joint committee of the two houses, consisting of five from the Senate and —— from the House, with instructions to report thereon at the earliest moment.

Mr. Parks offered the following substitute :

Resolved, That the terms of settlement submitted by the Attorney General of the United States to this branch of the General Assembly of Alabama, with the accompanying communication from the Governor, be referred to a committee of three Senators, with instructions to report upon the reassembling of the Senate.

The substitute was adopted, and

The resolution as thus amended was adopted.

Thereupon the President appointed Messrs. Parks, Terrell and Hewitt as said committee.

On motion of Mr. Cobb—

The Secretary of the Senate was instructed to spread the Governor's communication and accompanying plan of adjustment upon the Journal of the Senate.

On motion of Mr. Martin of Tuscaloosa—

Resolved, That the Secretary of the Senate be instructed to furnish to the Speaker of the House a copy of the communication this day addressed to Dr. R. H. Ervin

and Democratic Senators and members of the General Assembly.

On motion—

The Senate adjourned until 10 o'clock to-morrow.

FRIDAY, December 13, 1872.

The Senate met pursuant to adjournment.

PRAYER.

Prayer by Rev. Mr. White of the House.

The Journal of yesterday was read.

On motion of Mr. Martin of Tuskaloosa—

It was corrected so as to read "communication," instead of "message" from the Governor; and, as thus amended, was then approved.

Mr. Coleman moved to go into secret session ;

Which motion was lost.

Mr. Parks, from the special committee to whom was referred the communication of the Governor and the plan of adjustment submitted by the Attorney-General of the United States, made the following

REPORT :

That so far as relates to the election of the Senator from Marengo county, your committee are of the opinion that a fair and just construction of the terms of the proposition submitted as aforesaid as a basis of settlement, will not preclude the introduction of proper evidence before the body organized in pursuance thereof, nor deny to said body so constituted the right to judge, upon "good and sufficient evidence," whether fraud has been perpetrated, or unlawful or wrongful means been resorted to, to prevent electors from freely and fearlessly casting their ballots, "and the power" to reject such illegal fraudulent votes, if any should be found to have been cast.

For the foregoing reasons, and with a desire to see the causes which have threatened the peace of the Commonwealth removed, tranquility restored to the public mind, and the general welfare conserved, your committee respectfully recommend and advise the acceptance of said

proposition as a basis of settlement of pending difficulties.

But in making this recommendation, we do it with a solemn protest, believing the suggestions and plan of settlement proposed by the Attorney-General of the United States to be equivalent to a coercive measure of the Federal Government.

Respectfully submitted.

W. H. PARKS,
Chairman.

Mr. Hewitt, of said committee, made the following

MINORITY REPORT:

The minority of the special committee to whom was referred the resolution in relation to the communication of his Excellency the Governor, enclosing terms of compromise between the General Assembly at the Capitol and the body claiming to be the General Assembly meeting at the United States Court-room in this city, have had the same under consideration, and have instructed me to report in favor of the adoption of the same.

The committee are induced to report in favor of the compromise, not because they are not satisfied with the legality of the organization of the General Assembly at the Capitol, but simply in order to secure the country from anarchy and civil discord.

G. W. HEWITT.

Mr. Cobb moved to postpone the further consideration of the reports until 10 o'clock to-morrow;

Which motion was lost—yeas 6, nays 12.

Yeas—Messrs. Cobb, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa, and Parks—6.

Nays—Messrs. President, Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Robinson, Snodgrass, Terrell and Walton—12.

On motion of Mr. Coleman—

The minority report was laid on the table—Yeas 12, nays 6.

Yeas—Messrs. Carmichael, Cobb, Coleman, Cooper, Edwards, Jones, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—12.

Nays--Messrs. President, Cunningham, Driesbach, Hewitt, Mabry and Martin of Conecuh—6.

On motion of Mr. Coleman—

The report of the committee was laid on the table—years 13, nays 3.

Yeas—Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Martin of Conecuh, Martin of Tuskaloosa, Robinson, Snodgrass and Walton—13.

Nays—Messrs. Hewitt, Parks and Terrell—3.

Messrs. Jones and Mabry were excused from voting.

Mr. Martin of Tuskaloosa offered the following resolution:

Be it resolved by the Senate, (the House concurring,) That a committee of three from the Senate and — from the House be appointed, whose duty it shall be to communicate to his Excellency the Governor of Alabama, the fact that the General Assembly has this day acquiesced in the proposed terms of adjustment by the Attorney-General of the United States for the settlement of the difficulties and obstructions attending the organization of the General Assembly.

2d. That said committee be authorized and empowered to agree upon the day (the members from each house acting on behalf of their bodies alone) for the meeting and temporary organizations at the Capitol of said houses, and to make all other such arrangements as may be required in the premises.

3d. That said committee be instructed to communicate to the Attorney-General the acquiescence by the General Assembly in the terms of compromise and adjustment proposed by him.

Mr. Cobb offered the following substitute, which was adopted:

Resolved, That in reference to the plan of compromise and settlement communicated by the Attorney General of the United States, with the approval of the President, to D. P. Lewis, Governor of the State, and transmitted to this Senate on the 12th day of December instant, for the organization of the General Assembly of Alabama, this Senate, in view of the great detriment to the public interest produced by the controversy raised without fault upon the part of the Senate, and incurred by the continuance of this controversy, upon the resignation of the officers thereof, acquiesce in a reorganization thereof, ac-

cording to said plan of compromise, and appoint the ——— day of ——— inst., as the time for such reorganization.

Mr. Martin of Tuskaloosa moved to amend the resolution by striking out all after the words "in view of," down to the word "controversy," inclusive.

Mr. Hewitt moved to lay the amendment to the substitute on the table ;

Which motion was lost.

Ayes, 5 ; noes, 13.

Ayes—Messrs. Cobb, Hewitt, Mabry, Robinson and Terrell—5.

Noes—Messrs. President, Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Jones, Martin of Conecuh, Martin of Tuskaloosa, Parks, Snodgrass and Walton—13.

Mr. Parks moved to amend the amendment by striking out all after the word "compromise" towards the end of the resolution.

On motion of Mr. Hewitt—

The amendment to the amendment was laid on the table.

Ayes, 10 ; noes, 6.

Ayes—Messrs. President, Cobb, Coleman, Cunningham, Driesbach, Edwards, Hewitt, Robinson, Snodgrass and Walton—10.

Noes—Messrs. Cooper, Jones, Mabry, Martin of Conecuh, Martin of Tuskaloosa and Parks—6.

Messrs. Carmichael and Terrell were excused from voting.

Mr. Martin's amendment was then lost.

Ayes, 6 ; noes, 12.

Ayes—Messrs. Carmichael, Cooper, Driesbach, Edwards, Jones, and Martin of Tuskaloosa—6.

Noes—Messrs. President, Cobb, Coleman, Cunningham, Hewitt, Mabry, Martin of Conecuh, Parks, Robinson, Snodgrass, Terrell and Walton—12.

Mr. Robinson offered the following substitute :

Resolved, That the Senate acquiesce in the plan of adjustment suggested by the Attorney General, which was communicated to the Senate by the Governor on yesterday, and agree that the Senate Chamber shall be vacated on Monday, the 16th inst, for the purpose of carrying into effect said adjustment.

Mr. Hewitt moved to lay the substitute on the table.

Which motion, was lost.

Ayes, 7; noes, 11.

Ayes—Messrs. President, Cobb, Hewitt, Mabry, Martin of Conecuh, Terrell and Walton—7.

Noes—Messrs. Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Jones, Martin of Tuska-loosa, Parks, Robinson and Snodgrass—11.

Mr. Terrell moved to adjourn until 10 o'clock to-mor-row.

Which motion was lost.

Ayes, 4; noes, 14.

Ayes—Messrs. Cobb, Mabry, Martin of Conecuh and Terrell—4.

Noes—Messrs. President, Carmichael, Coleman, Coop-er, Cunningham, Driesbach, Edwards, Hewitt, Jones, Martin of Tuskaloosa, Parks, Robinson, Snodgrass and Walton—14.

On motion of Mr. Jones—

All that portion of the resolution after the word "yes-terday" was stricken out.

Mr. Martin of Conecuh offered the following amend-ment to the resolution, which was adopted :

"But without admitting that this "General Assembly is not legally and constitutionally organized."

The resolution as thus amended was then adopted.

Ayes, 16; noes, 2.

Ayes—Messrs. President, Carmichael, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hewitt, Jones, Martin of Conecuh, Martin of Tuskaloosa, Parks, Robinson, Snodgrass, Terrell and Walton—16.

Noes—Messrs. Cobb and Mabry—2.

On motion of Mr. Cobb—

Resolved, That a committee of three be appointed to fix a day for the reorganization of the General Assem-bly, and to notify the Governor that the Senate has ac-cepted the Attorney General's proposition.

Thereupon the President appointed Messrs. Cooper, Walton and Cunningham said committee.

Mr. Terrell asked and obtained leave to enter the fol-lowing protest upon the Journal :

I do acquiesce and yield to the plan of compromise as communicated by the Attorney General of the United States to the Governor of Alabama, but yield to the same with a solemn protest, believing the proposition of the

said Attorney General of the United States to be equivalent to a coercive measure of the Federal Government.

JOHN A. TERRELL,
Senator, 12th District of Alabama.

Mr. Jones moved to adjourn until 10 o'clock Monday.
Which motion was lost.

On motion of Mr. Robinson—

The Senate adjourned until 10 o'clock to-morrow.

SATURDAY, December 14, 1872.

The Senate met pursuant to adjournment.

The Journal of yesterday was read and approved.

On motion of Mr. Parks—

The call of the districts was dispensed with.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
December 13, 1872. }

Mr. President:

The House has concurred in the Senate joint resolution extending the present session of the General Assembly.

ELLIS PHELAN,
Clerk.

The Senate then took an informal recess.

The Senate was called to order by the President.

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
December 14, 1872. }

Mr. President:

The House has adopted the accompanying joint resolutions, and asks the concurrence of the Senate in the same.

Committee on part of the House, Messrs. Jones, Taylor and Cowan.

ELLIS PHELAN,
Clerk.

The joint resolutions are as follows:

Resolved, That in view of the detriment to the public interests by the continuance of the controversy respecting the organization of the General Assembly, and to promote conciliation and harmony, but without in any wise admitting that this General Assembly is not fully and legally constitutional, the House of Representatives, the Senate concurring, doth hereby acquiesce in and assent to the plan of compromise and permanent organization proposed by the Attorney-General, with the approval of the President of the United States, and recommended by his Excellency David P. Lewis, in his communication of the 12th inst. to Robert H. Ervin, President, and the Democratic and Conservative members of the Legislature at the Capitol.

Resolved further, That Tuesday at the hour of twelve o'clock, noon, the 17th instant, be suggested as the time for the organization contemplated herein; and that a committee of three be appointed by the Speaker, acting in concurrence with a committee from the Senate, to inform his Excellency David P. Lewis of the adoption of these resolutions, and with power to confer with a committee of the Republican members of the Legislature, and to agree upon another day and time for the organization, if the time herein proposed should not meet their approval.

Resolved further, That the foregoing resolutions have been adopted, with the full concurrence and consent of the members from the counties of Barbour and Marengo.

The Senate thereupon proceeded to consider the House message.

On motion—

The Senate concurred in the House joint resolutions, and the President appointed Messrs. Cooper, Walton and Cunningham, the committee under the same on the part of the Senate.

On motion of Mr. Terrell—

The Senate adjourned until 10 o'clock Monday.

MONDAY, December 16th, 1872.

The Senate met pursuant to adjournment.

The Journal was read, amended, and as amended approved.

On motion of Mr. Walton—

The Senate went into secret session.

Mr. Cooper, from the joint committee to arrange the details for carrying out the plan of adjustment submitted by the Attorney General, made the following

REPORT.

Which was read and concurred in.

SENATE CHAMBER,
Montgomery, December 16, 1872. }

The committee, appointed by this Senate, to act in concurrence with a similar committee on the part of the House, and to meet in conference with committees of Court House assembly, beg leave to report :

1. That Tuesday the 17th inst., at noon, was agreed upon as the time for the temporary organization of the Legislature, upon the plan submitted by the Attorney-General of the United States, and the committee appointed by the two bodies have adopted the following resolution :

1. *Resolved*, That the plan of adjustment and compromise proposed by the Attorney-General of the United States for the settlement of the difficulties in the way of the organization of the General Assembly of Alabama, be the basis of our action, and that for the purpose of carrying the same into effect the following rules are adopted ; *Provided*, That nothing in this adjustment be construed by either party to the same, an admission of illegality in the organization of their respective bodies.

2. That upon entering the hall of the House of Representatives that the persons holding certificates, and entitled to seats, under the rule laid down by the Attorney General of the United States, shall present their certificates, and their names shall be registered by the chief Clerks of the two houses, (that at the Capitol and that at the Court House.) Each of said Clerks shall make a

register, and the two shall be compared and made uniform.

3. That in the election of a chairman of the temporary organization, that the vote shall be taken by a call of the roll of the names so registered, and each clerk shall keep a tally, and upon the count the person receiving a majority of the votes shall be chairman of said temporary organization.

4. That the officers of the two organizations, shall each tender their resignations in writing to be filed with the chief Clerk of their respective organization, in the manner indicated in the settlement proposed by the Attorney General of the United States.

5. That in calling the roll for the purpose of electing a temporary chairman, the chief Clerk of each House shall call the roll of members of that House.

6. That the chief Clerks of the two houses shall call the rolls of their respective houses for the election of a temporary Clerk.

7. That the same rules adopted as applicable to the House of Representatives, are hereby adopted, and shall be applicable *mutatis mutandis* in the proposed organization of the Senate; *Provided*, That the Lieutenant-Governor shall be temporary chairman of the Senate.

Your committee further report that in order to expedite the counting of the ballots, as contemplated in the plan of the Attorney General above referred to, it was agreed that subpoenas *duces tecum* be issued under the authority of the two bodies respectively to the probate judges of the counties of Marengo, Butler, Conecuh and Escambia urging them to bring as expeditiously as possible the precinct returns and poll lists of their respective counties, to the Capitol, to be used by the General Assembly in determining the contests for seats, in accordance with plan of Attorney General. That in order to further expedite the production of persons and papers required in the settlement of contested seats, the following communication was addressed to the probate judges of the above named counties:

Whereas, the Inspectors' returns of the vote of the several election precincts of the county of _____ for members of the General Assembly of Alabama, at the election held on Tuesday, the 5th of November, 1872, are important and necessary evidence, before a temporary organization of the General Assembly of Alabama, to

commence on Tuesday, the 17th inst., at the Capitol, for the purpose of effecting a permanent organization, under a compromise proposed by the Attorney General of the United States, for the purpose of settling the conflicting claims of the two General Assemblies; the one at the Capitol, and the other at the United States Court Room. Now, we, the undersigned committee, appointed by each of said organizations, do hereby unite in the request to the said judge of probate, that he will without delay come to Montgomery and bring with him the Inspectors' returns of the votes cast at the several precincts in his county for Representatives and Senator of said county or district to the General Assembly of Alabama, at the late election held on the 5th day of November, 1872, and that you also bring with you the poll lists and ballots of said precincts, and that you have the same at the Capitol, in the city of Montgomery, before said organization, as soon as practicable, to be used in evidence before said tribunal.

In this respect, we all unite and earnestly press upon you the importance of compliance, as expeditiously as possible. This December 16th, 1872.

(Signed)

THOS. B. COOPER, Chairman,
A. CUNNINGHAM,
S. WALTON,
JNO. A. TERRELL,
Committee of Senate, at Capitol.

SAM'L G. JONES, Chairman,
B. F. TAYLOR,
J. H. COWAN,
Committee of House of Representatives, at Capitol.

A. P. WILSON, Chairman,
CHAS. S. C. DOSTER,
A. H. CURTIS,
Committee of Senate, at Court House.

ALEX. WHITE, Chairman,
REUBEN JONES,
G. W. LAWRENCE,
JOHN BRUCE,
LEWIS E. PARSONS,
Committee of House of Representatives, at Court House.

The following resolution was then adopted :

Resolved, That either or any party, or person interested in the issues in controversy shall have the right to sue out process for obtaining such proof as may be deemed proper and necessary and for that purpose may call upon the proper officers of either organization (that at the Capitol, or that at the U. S. Court Rooms,) to issue and execute such process.

Respectfully submitted,

THOS. B. COOPER,
Chairman.

On motion of Mr. Snodgrass—

Resolved, That the committee be continued and that they be empowered to take such steps as they may deem necessary and proper to accomplish the purposes for which they were appointed.

On motion of Mr. Cooper—

Mr. Terrell was added to the committee.

The President of the Senate, *pro tem.*, tendered his resignation, which was accepted by the Senate.

On motion of Mr. Snodgrass it was unanimously

Resolved, That the thanks of the Senate of Alabama be tendered to Hon. R. H. Ervin for the able, dignified, courteous and impartial manner in which he has discharged his duties as presiding officer of said Senate.

The Secretary, Assistant Secretary, Engrossing Clerk, Enrolling Clerk, Sergeant-at-Arms and Doorkeeper of the Senate, respectively tendered their resignations to take effect upon the election and qualifications of their successors.

On motion of Mr. Coleman—

Resolved, That a vote of thanks be hereby tendered to the officers of the Senate for the efficient manner in which they have discharged their duties.

On motion of Mr. Carmichael—

The Senate adjourned until this evening 4 o'clock.

AFTERNOON SESSION.

The Senate met pursuant to adjournment.

On motion—

The Senate adjourned until 9½ o'clock to-morrow.

TUESDAY, December 17, 1872.

The Senate met pursuant to adjournment.

ROLL CALL.

On the call of the roll the following Senators answered to their names :

Messrs. President, Carmichael, Cobb, Coleman, Cooper, Cunningham, Driesbach, Edwards, Hamilton, Hewitt, Mabry, Martin of Conecuh, Martin of Tuska-loosa, Parks, Robinson, Snodgrass, Terrell and Walton, 18.

The Journal of yesterday was read and approved.

On motion of Mr. Cobb—

The Senate went into secret session.

On motion,

The injunction of secrecy was removed from the proceedings of the Senate in secret sessions on and after Monday next, the 23d inst.

The Senate passed from secret session into open session,

MESSAGE FROM THE HOUSE.

HOUSE OF REPRESENTATIVES, }
December 17, 1872. }

Mr. President :

The House has adopted the accompanying

JOINT RESOLUTION,

In relation to paying Sergeant-at-Arms and Doorkeeper for extra services in compelling the attendance of absent members.

ELLIS PHELAN,
Clerk.

On motion of Mr. Cooper—

The Senate concurred in the House joint resolution in relation to paying the Sergeant-at-Arms and Doorkeeper for extra services in compelling the attendance of absent members.

On motion of Mr. Cobb—

Resolved, That the Senate do now adjourn to the hour of 12 m. this day.

BILLS, MEMORIALS & PETITIONS,

INTRODUCED IN THE

“CAPITOL” SENATE.

SESSION 1872.

By Mr. CARMICHAEL—
1872.

Dec. 3. To amend section 3704 of the Revised Code of Alabama. Referred to a select committee.

Dec. 4. To prevent the carrying of sling shots. Referred to Judiciary.

By Mr. COBB—
1872.

Nov. 30. To repeal an act to regulate the publication of legal notices in the counties of Shelby, Walker, Baker, DeKalb, Cleburne, Marshall, Winston, Franklin, Coosa, Marion, Jefferson, St. Clair, Geneva, Covington, Bibb, Coffee, Dale and Lawrence, approved March 3, 1870, so far as the same relates to the counties of Shelby and Jefferson. Passed.

Dec. 3. Joint Memorial to the Congress of the United States. Adopted.

Dec. 9. To repeal an act entitled an act to repeal section six (improperly written section two) of an act entitled an act to incorporate the Briarfield Iron Works Company, of the county of Bibb, approved August 11, 1868. Passed.

By Mr. COLEMAN—
1872.

- Dec. 9. To amend an act entitled an act to establish a new charter for the town of Athens, in the county of Limestone, approved March 8, 1871. Passed.
- Dec. 11. To amend section 796 (clause two) of the Revised Code of Alabama. Referred to Judiciary.
- Dec. 11. To require the county trsasurer of Lauderdale county to pay the fees of county officers in certain cases. Referred to Judiciary.

By Mr. CUNNINGHAM—
1872.

- Dec. 11. For the relief of Eddy Ann Henry of Talladega county from the disabilities of non-age. Referred to Judiciary.

By Mr. EDWARDS—
1872.

- Dec. 3. To make Malinda Ann Cain a free dealer. Ordered to a second reading. Referred to Grievances and Disabilities, December 4.

By Mr. ERVIN—
1872.

- Dec. 4. To regulate the holding of special terms of the circuit courts of this State. Referred to Judiciary.
- Dec. 4. To require the clerk of the circuit court of Wilcox county to set the cases upon the State docket of his court for trial on particular days. Passed.
- Dec. 4. To regulate the sale of property levied upon under execution in Wilcox county. Passed.
- Dec. 4. To regulate the trial of attachment cases. Referred to Judiciary.

By Mr. HAMILTON—
1872.

- Nov. 21. For the relief of the Mobile and Ohio Railroad Company. Referred to a select committee.

By Mr. HEWITT—
1872.

- Nov. 21. To repeal an act entitled "an act to exempt from administration property of decedents and vest titles in the widow or child or children," approved February 8, 1872. Referred to Judiciary.
- Nov. 30. To amend an act entitled an act to repeal an act entitled an act to authorize the publication of legal and other notices in the State of Alabama, approved August 12, 1868, and an act entitled an act to amend the same, approved October 8, 1868. Passed.
- Nov. 30. To repeal an act entitled an act to authorize the commissioners' court for Walker county to levy a special tax for the purpose of liquidating all the county indebtedness which has accrued since the war, and is unpaid up to September 1st, 1871, and approved February 9th, 1871. Ordered to a third reading. Passed, December 3.
- Dec. 3. To repeal an act entitled an "an act to authorize the publication of the laws of Alabama," approved October 10th, 1868, and an act entitled "an act to amend the same," approved December 19th, 1871. Passed.
- Dec. 3. To economise in the public printing, and to repeal section 123 of the Revised Code. Referred to a select committee.
- Dec. 6. To better secure mechanics and others for their labor and materials furnished. Referred to Judiciary.
- Dec. 10. To regulate elections in Alabama. Referred to Judiciary.
- Dec. 10. To exempt certain property from levy and sale under process from the courts of this State. Referred to Judiciary.
- Dec. 10. To repeal an act entitled "an act to relieve disabilities of persons against whom a divorce from the bonds of matrimony has been decreed," approved February 7, 1870. Referred to a select committee.
- Dec. 10. To amend section 87 of the revenue laws of 1868. Referred to Judiciary.

By MR. HEWITT—Continued.

1872.

Dec. 11. To change the name of the Elyton, Corinth and Tennessee River Railroad Co. Passed.

Dec. 11. To amend section 11 of an act entitled "an act to furnish the aid and credit of the State of Alabama, for the purpose of expediting the construction of railroads within the State. Amended and referred to Internal Improvements.

By Mr. JONES—

1872.

Dec. 4. Joint memorial to Congress asking that payment be made to the owners of cotton unlawfully seized and taken from them by United States Treasury Agents, or the value or proceeds thereof. Adopted.

By Mr. MARTIN of Tuskaloosa.

1872.

Nov. 21. Petition by the mayor and aldermen of the city of Tuskaloosa praying certain amendments to the charter of the city. Referred to a select committee.

By Mr. PARKS—

1872.

Dec. 11. To establish a court of chancery in Crenshaw county. Referred to Judiciary.

Dec. 11. To amend section 1985 of the Revised Code of Alabama. Referred to Judiciary.

Dec. 11. For the relief of Caswell Whittington and Calvin Whittington, of Pike county. Referred to Local Legislation.

By Mr. ROBINSON—

1872.

Dec. 10. To repeal an act entitled "an act to suppress murder, lynching and assaults and batteries," approved December 28, 1868. Passed.

By Mr. TERRELL—
1872.

Dec. 10. To repeal an act entitled "an act to amend an act entitled an act to establish revenue laws of the State of Alabama," approved February 9, 1870. Referred to Finance and Taxation.

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